HUMAN RIGHTS

Second Decade to Combat Racism and Racial Discrimination

Global compilation of national legislation against racial discrimination

UNITED NATIONS

World Campaign for Human Rights

HR/PUB/90/8

Centre for Human Rights
Geneva

Second Decade to Combat Racism and Racial Discrimination

Global compilation of national legislation against racial discrimination

United Nations
New York, 1991

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CONTENTS

		Page
INTRODUCTION		1
I.	OVERVIEW OF THE GLOBAL COMPILATION	7
	A. Equality and non-discrimination in the enjoyment of human rights	7
	B. Specific institutions for the promotion of racial tolerance and harmony	11
	C. Recourse procedures	12
	D. Remedies	13
	E. Penalties	14
	F. Struggle against *apartheid*	15
II.	GLOBAL COMPILATION OF NATIONAL LEGISLATION AGAINST RACIAL DISCRIMINATION	17
	Australia	17
	Austria	25
	Bahamas	29
	Brazil	30
	Bulgaria	32
	Byelorussian Soviet Socialist Republic	34
	Canada	37
	China	45
	Colombia	56
	Cuba	62
	Cyprus	65
	Czechoslovakia	69
	Denmark	71
	Dominica	78
	Ecuador	82
	El Salvador	86
	Finland	87
	France	89
	Germany, Federal Republic of	92

	Page
Ghana	96
Hungary	97
India	101
Iran (Islamic Republic of)	111
Malawi	112
Mauritius	112
Mexico	114
Netherlands	116
New Zealand	118
Nigeria	125
Norway	128
Pakistan	128
Panama	130
Poland	134
Portugal	135
Qatar	148
Spain	150
Trinidad and Tobago	150
Turkey	153
Tuvalu	157
Ukrainian Soviet Socialist Republic	159
Union of Soviet Socialist Republics	164
United Arab Emirates	167
United Kingdom of Great Britain and Northern Ireland	168
Venezuela	191

INTRODUCTION

Equality in the enjoyment of human rights and fundamental freedoms is at the very heart of the work of the United Nations. The peoples of the United Nations, in the Organization's Charter adopted at San Francisco in June 1945, reaffirmed their faith in fundamental rights, in dignity and worth of the human person and in the equal rights of men and women and recorded their determination to practise tolerance and live together in peace with one another as good neighbours. That same Charter entrusts the United Nations with promoting and encouraging respect for human rights and fundamental freedoms "for all without distinction as to race, sex, language or religion".

The inclusion of equality and non-discrimination provisions in the Charter of the United Nations was not an accident. Rather, the drafters of the Charter were well aware of the dangers of racism, which had become so clearly evident in the years prior to the Second World War and which during that war reached an unimagined level of horror in the systematic and wholesale extermination of peoples for reason of race alone. For them, the relation between the prevention of racism and peace was only too patent.

The question of equal enjoyment of human rights was one of the first human rights issues dealt with by the General Assembly, which in 1946, in one of its earliest resolutions, declared "that it is in the higher interests of humanity to put an immediate end to religious and so-called racial persecution and discrimination". The Assembly called on Governments and responsible authorities to conform both to the letter and to the spirit of the Charter and to take the most prompt and energetic steps to that end.

The Universal Declaration of Human Rights of 1948, the first and the most fundamental human rights instrument adopted by the United Nations, insisted on equality of rights and the prevention of discrimination in its first two articles; article 1 reads:

> All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2 states:

> Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The right to protection against discrimination was affirmed in article 7 of the Declaration which reads:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Since the founding of the United Nations, many international conventions and declarations specifically aimed at eliminating racial discrimination have been adopted. Among them are the Convention on the Prevention and Punishment of the Crime of Genocide, the Declaration and International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Suppression and Punishment of the Crime of *Apartheid* and the Convention against *Apartheid* in Sports, the ILO Conventions on Discrimination in Employment and Equal Remuneration and the UNESCO Declaration on Race and Racial Prejudice and the Convention against Discrimination in Education.

In order to mobilize national and international activities to eradicate all forms of racial discrimination, to pursue a vigorous world-wide campaign of education designed to dispel racial prejudice and to involve world public opinion in the struggle against racism and racial discrimination, the United Nations General Assembly declared the period 1973-1983 as the Decade for Action to Combat Racism and Racial Discrimination. As part of the Programme of Action for the Decade, a World Conference to Combat Racism and Racial Discrimination was held at the mid-point of the Decade in 1978 and in 1983, as the Decade drew to a close, a Second World Conference took place.

As a result of the reflections of the Second World Conference, the General Assembly, based on its determination to support the struggle against racism, proclaimed 1983-1993 the Second Decade to Combat Racism and Racial Discrimination. The basic objectives of the Second Decade are three: to promote human rights and fundamental freedoms for all without distinction as to race, colour, descent or national or ethnic origin; to eliminate prejudice and racial discrimination; and to abolish régimes and policies based on racism.

The Second World Conference to Combat Racism and Racial Discrimination in its Declaration of 12 August 1983, recognized the central importance of national legislation and judicial and administrative action to combat racial discrimination, and the specific value of recourse procedures for the implementation of human rights norms. In the Programme of Action adopted on the same day and subsequently approved by the General Assembly, the Conference recommended, *inter alia*, that:

(*a*) Governments, where necessary, should guarantee non-discrimination on grounds of race and equal rights for all individuals in their constitutions and legislation;

(*b*) Governments, where necessary, should undertake to review and update all national legislation and remove from it all discriminatory provisions;

(*c*) Legislation should be consistent with international standards embodied in international instruments;

(*d*) Victims of discrimination should be informed and advised of their rights, by all possible means, and given assistance in securing those rights;

(*e*) Governments should, where necessary, establish appropriate and effective machinery, including conciliation and mediation procedures and national commissions to ensure that such legislation was enforced effectively and thereby to promote equality of opportunity and good race relations.

The Programme of Action further provided that States, within the framework of their national legislation and policy and according to their means, should set up national institutions for the promotion and protection of human rights. Those institutions should study legal developments and review the laws and policies of the Government with a view to ensuring the elimination of all discriminatory laws, prejudices and practices based on race, sex, colour, descent and national and ethnic origin.

The Programme of Action included a separate section on recourse procedures for victims of racial discrimination in which States were invited to take into account, within their domestic recourse procedures, the following considerations:

(*a*) Access to such procedures should be as broad as possible;

(*b*) Existing recourse procedures should be publicized and victims of racial discrimination should be assisted in utilizing the procedures where appropriate;

(*c*) In each jurisdiction the rules relating to the initiation of complaints should be made simple and flexible and capable of being entertained in the language of the complainant;

(*d*) Complaints of racial discrimination should be dealt with as expeditiously as possible, and there should be a time-limit with regard to the length of investigations;

(*e*) Indigent victims of racial discrimination should receive legal aid and assistance in prosecuting their complaint, with the help of an interpreter when necessary, in civil or criminal proceedings.

In addition, the Programme of Action provided that victims of racial discrimination should have the right to seek from tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

These recommendations of the Conference were included in the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, approved by the General Assembly in its resolution 38/14 of 22 November 1983.

At the request of the General Assembly, the Secretary-General submitted to the General Assembly body at its thirty-ninth session a plan of activities for the period 1985-1989 for implementing the Programme of Action for the Second Decade, in which it was suggested that the Assembly might consider inviting the Secretary-General to compile and publish a consolidated volume of national legislation designed to combat racism and racial discrimination. It was also suggested that the compilation could be presented to the Sub-Commission on Prevention of Discrimination and Protection of Minorities and to the Committee on the Elimination of Racial Discrimination for their examination and recommendations, with a view to the further development of such national legislation on a universal basis.

In its resolution 39/16 of 23 November 1984, the General Assembly invited the Secretary-General to proceed immediately with the implementation of the activities contained in that plan of activities. The following year the Assembly, in its resolution 40/22 of 29 November 1985, invited the Secretary-General to submit the global compilation of national legislation against racial discrimination to the Assembly at its forty-third session.

The global compilation of national legislation against racial discrimination is only one of the elements within the framework of the Decade's activities relating to national legislation and national institutions for the promotion of racial tolerance and the prevention of discrimination. The other elements include:

(*a*) The preparation of model legislation in the field of racial discrimination;

(*b*) The organization of training courses for legislative draftsmen. The first course took place in New York in September 1987;

(*c*) The preparation of a handbook of recourse procedures in the field of racial discrimination. A seminar was held on this issue at Bangkok from 2 to 13 August 1982;

(*d*) The preparation of a manual of existing national institutions promoting tolerance and harmony and combating racism and racial discrimination;

(*e*) The organization of a meeting of representatives of national institutions for the purpose of promoting an exchange of experiences in the field;

(*f*) The organization of regional workshops on the adoption of legislation to combat racism and racial discrimination;

(*g*) The organization of a seminar on community relations commissions and their functions. A seminar on this subject was held at Geneva from 9 to 20 September 1985.

In order to prepare the global compilation of national legislation against racism and racial discrimination the Secretary-General, on two occasions, requested relevant information from Governments. Replies were received from 44 States.

Thirty-four of those responding submitted the text of constitutional or legal provisions, totalling more than 1,200 pages and 10 responses asked the Secretariat to extract the needed information from 61 reports previously submitted under the International Convention on the Elimination of All Forms of Racial Discrimination. The Secretariat reviewed and analysed this material, which fell under the following headings: equality and non-discrimination in the enjoyment of human rights, specific institutions for the promotion of racial tolerance and harmony, recourse procedures, remedies, penalties and the struggle against *apartheid*.

The review and analysis of this material and the selection of appropriate extracts required considerable time. Given the delicate nature of extracting information from constitutional and legislative texts and the need to reflect the most recent developments, the Secretary-General transmitted to the Governments concerned the relevant portions of the provisional texts of the compilation for comment or correction. The comments and corrections received have been incorporated into the present compilation.

I. OVERVIEW OF THE GLOBAL COMPILATION

The constitutional and legislative texts submitted reflect the concerns and recommendations of the Second World Conference and the General Assembly as outlined above. Each one of the elements for national action dealt with by the Conference and the Assembly found constitutional and legislative expression in the texts submitted. Most States responding provided information and texts relating to the basic guarantees of equality in the enjoyment of human rights, either taken globally or with regard to specific human rights. They also, in many cases, supplied information on non-discrimination provisions relating to the exercise of specific rights. Information was also provided on the mechanisms established for protecting the enjoyment of human rights and on the sanctions provided for in cases of violation.

A few States submitted the text of legislation dealing specifically with race relations or the promotion of human rights, focusing on the issue of discrimination in many areas and establishing specific procedures in that regard. The present overview seeks to highlight the main points of the texts submitted. It is not exhaustive, and particular States are mentioned by way of example.

A. Equality and non-discrimination in the enjoyment of human rights

It is recognized by the overwhelming majority of States that individuals are entitled to equality of treatment before the law, and most States have passed legislation to this effect. The form and content of such legislation varies from one country to another. Many States do not make distinctions as regards the class of persons protected by the law, thus ensuring universal equality of treatment. Examples of this would include the Constitutions of Brazil—"all are equal before the law"; Canada—"every individual is equal before and under the law"; and El Salvador—"all men are equal before the law". In each of these examples, not only is the class of persons protected an infinite one but it is specifically emphasized that, for the purposes of the law in question, discrimination on the basis of race is not permitted.

Legislation passed has sometimes raised the distinction of citizenship as regards the class of persons protected. This distinction may be of little

practical significance if, as in the case of the Union of Soviet Socialist Republics, another law guarantees non-citizens the rights and freedoms provided by law and specifically mentions that aliens have the right to apply to court to protect their various rights.

Even where it has been officially recognized that individuals are to be treated equally by the law, it has been acknowledged that there might be practical problems in the achievement of this policy. The Constitution of Austria draws attention to this by stating that nationals belonging to a minority should receive the same treatment "in law and in fact".

It is the view of some States that to realize *de facto* equality for all it may be necessary to take affirmative action in support of some groups in society that have already been victims of discrimination. In New Zealand and the United Kingdom of Great Britain and Northern Ireland, for example, the taking of such action is deemed not to be in breach of the laws against racial discrimination. This position is shared by Canada where, for instance, the law expressly obliges employers to examine situations in which employees might suffer discrimination and to take steps to eradicate it.

In New Zealand, the State has taken the precaution of legislating against discrimination by subterfuge. Consequently, where a condition is imposed which is not apparently in contravention of a provision but which has a discriminatory effect in a situation that would otherwise be unlawful, then that condition will be deemed to be unlawful unless the person imposing it establishes good reason for its imposition and shows that its imposition is not a subterfuge to avoid complying with that provision.

Many States, such as El Salvador, have recognized the need to ensure that civil rights are enjoyed by all without discrimination. Although it could be argued that the general declarations of equality provided by most States are enough to ensure this, many of them have gone further in specifically listing at least some of the rights to be enjoyed free of discrimination. For example, some States seek to ensure that all persons are free to marry as they choose. In New Zealand, any condition attached to marriage that is based on race is null and void. The Venezuelan Constitution declares that no impediment imposed by another country will be recognized as a bar to an alien wishing to marry in Venezuela. There are some countries, such as Bulgaria, that go further in indicating that any person who takes measures to prevent mixed marriages will be punished.

The right to own and transfer property is recognized for everyone by the Constitutions of, for instance, Portugal and El Salvador. It is recognized in Mauritius that all, regardless of race, have the right to the protection of their property and to be free of deprivation thereof unless they are properly compensated. This sort of protection is also recognized in Tuvalu. In both States, however, the right to property is subject to the rights of others as well as to the national interest.

The right to security of person is one of the utmost importance in ensuring the dignity of human beings and, therefore, one that should be guaranteed by States to all persons, citizens and non-citizens alike. States have legislated on this issue in two principal ways. Some, as illustrated by the Constitution of Trinidad and Tobago, have asserted the right of the individual to liberty and the security of the person. Others approach this issue differently. For example, the Constitution of the United Arab Emirates seeks to secure the right by declaring that all persons should be free of arbitrary arrest, searches or restriction of liberty. In other States, the Constitution also declares that no person should be subjected to torture or degrading treatment. Other examples would include Venezuela, which seeks to ensure this right by allowing asylum for anyone in danger for political reasons, subject to his satisfying the conditions established by law.

Equality and non-discrimination in the exercise of political rights is also important. States often provide that there should be equal and universal suffrage, thus implicitly barring the possibility of racial discrimination. Laws in Austria and Trinidad and Tobago, for example, make this explicit by specifically prohibiting the interference with an individual's rights, *inter alia*, on the ground of race.

Some States have adopted legislation in order to ensure that their political systems are generally free of racial discrimination. In Panama, for instance, the Constitution makes it unlawful to form political parties, *inter alia*, on the ground of race. Moreover, the Electoral Code states that political parties should not discriminate on the ground of race in their admission of members. In Portugal, the Constitution indicates that deputies convicted by a court of participating in organizations linked to Fascist ideology will forfeit their mandate. The Constitution also lists a number of principles governing the conduct of election campaigns, including freedom in canvassing votes, equal treatment and opportunity for all candidates and the impartial treatment of all candidates by the public authorities.

Freedom of association and the right to assembly are provided for all, without distinction of race, by such States as Trinidad and Tobago and Tuvalu. Some States seek to protect the rights of individuals as members of an association. In Panama, a law provides that the beliefs of members of peasant organizations must be respected, regardless, *inter alia*, of race. In the United Kingdom, associations may not discriminate in admitting applicants or in the terms on which they will admit them. It is also provided that associations may not discriminate in granting to members access to any benefits of the association, nor may any member be arbitrarily deprived of his membership or made subject to any other detriment simply on the ground of race.

On the other hand, some States take steps to prohibit associations that promote racial discrimination. In Spain, associations formed for the promotion of racial discrimination are viewed as illegal. Similarly, Portugal pro-

hibits Fascist organizations and Panama does not permit associations based on the premise of the superiority of any race. States such as Bulgaria, France and the Islamic Republic of Iran provide for the punishment of individuals who either form or participate in the activities of such associations. In France, these types of associations can be dissolved and become null and void.

Freedom of expression is guaranteed to every person in, for example, Cyprus and Nigeria, and certain States explicitly state that it will be enjoyed without distinction as to race. However, steps are also taken to prohibit the use of freedom of expression to promote racism. In Australia and New Zealand, for example, it is prohibited to publish an advertisement that indicates an intention to perform an act in breach of the laws against racial discrimination. In the United Kingdom, no one may advertise an intention to perform an act of racial discrimination, whether such act be unlawful or not. In Portugal, advertisements must not encourage, *inter alia*, racial discrimination. In Mexico, the broadcast of anything racially discriminatory is prohibited, as is the broadcast of anything that might bring ridicule to any person.

Freedom from discrimination in employment is also specifically guaranteed in some texts. In Australia, France, New Zealand and the United Kingdom, one may not refuse to employ or dismiss another on the ground of race. In the United Kingdom, it is stipulated that professional bodies and training courses responsible for conferring the appropriate qualifications may not withhold them on the ground of race, and the laws of Australia, Canada, Finland, New Zealand and the United Kingdom indicate that discrimination as to the conditions of work of employees is prohibited. In Canada, legislation provides that companies should pinpoint and, if necessary, correct by special measures and accommodation of differences, any conditions of disadvantage in employment experienced by racial minority groups.

Access to housing is another area where discrimination is prohibited. In Australia, Canada, New Zealand and the United Kingdom, it is prohibited for individuals to be denied access to property or to be discriminated against regarding the terms on which property is offered simply on the ground of race. These countries also prohibit the ill-treatment of occupants such as by depriving them of benefits they might otherwise have had and arbitrarily evicting them on the ground of race. In Dominica, it is indicated that a landlord may not withhold his licence on the ground of race, nor may an individual be harassed in Canada on the same ground.

Education is another area where discrimination is often specifically prohibited. In Cuba and Panama, all educational establishments are open to all without distinction of race. In Brazil, Colombia, New Zealand and the United Kingdom, it is specifically prohibited to bar the entrance of a student to an educational establishment on the ground of race. As indicated by the laws of Venezuela, the only limitation to access to education should be apti-

tude. In order to ensure that language is not an impediment to education, students in the Union of Soviet Socialist Republics may choose their language of instruction. In Ecuador, it is stipulated that the indigenous population should be taught in its own language.

Education is an area where the struggle against racial discrimination can be carried out. In Portugal, for example, the law states that education shall be used to eradicate all socio-economic prejudices. In Ecuador, the educational system is obliged to impart to children a greater understanding of their culture and society. Colombia shares this position and further stipulates that education should help to forge greater links between the various groups in society. In Mexico, education is used to develop a sense of brotherhood in all citizens.

Many States have recognized the right of access to public services or facilities and have legislated in order to ensure that the right is enjoyed by all without discrimination. In Finland, for example, it is provided that anyone who does not serve another in the normal course of his employment, on the ground of racial discrimination, will be punished. The laws of some other countries differ in two material respects. In Australia, Canada, New Zealand and the United Kingdom, for instance, even when the discrimination impeding an individual's enjoyment of this right is performed outside the normal course of the discriminator's employment, it is generally prohibited. Also, in these same countries, as in countries such as Brazil, Denmark and Norway, the sort of discrimination prohibited is more explicitly stated. They generally prohibit any person from barring another access to, or forcing another to cease the enjoyment of, any services, facilities or places generally open to the public solely on the ground of race. Many of those countries also indicate that discrimination in the terms on which such access will be granted is prohibited. In an attempt to facilitate the application of these laws, the laws of New Zealand and the United Kingdom give examples of the sorts of facilities and places to which these laws apply.

B. Specific institutions for the promotion of racial tolerance and harmony

Some States have legislated to provide protective measures and institutions so as to facilitate the investigation of problems before they become too acute. Such measures and institutions also provide a mechanism for the mitigation or correction of any situations of discrimination that may arise. Commissions of this nature have been established in Australia, Canada and the United Kingdom. They undertake a variety of programmes under the general objective of striving to improve race relations and promoting equality for all people. They have the task of creating, conducting or supporting research and educational programmes; they monitor the implementation of anti-

discrimination laws and impart their specialized knowledge and advice to other persons interested in the eradication of discrimination. In Australia, a subsidiary Community Relations Council assists the Commission by making recommendations to it as regards various relevant issues, either at the request of the Commission or the Minister or of its own volition.

Institutions such as the Commissions are also mandated to accept, investigate and try to settle complaints of discrimination, which they often do with the aid of subsidiary conciliatory machinery. These institutions are not merely passive but are entitled to act *suo motu* if they think that the circumstances so warrant.

C. Recourse procedures

Recourse procedures before the courts are available for the protection of the individual's human rights in general, and thus for violations based on racial discrimination (in Venezuela, for example), and they are provided for in some States with specific reference to racial discrimination. In Mauritius, complaints of racial discrimination may be taken to the Supreme Court; in the Federal Republic of Germany, they may be taken to the Federal Constitutional Court. In Nigeria access is provided via the High Courts and in the United Kingdom to the county courts, which, for the purposes of handling racial discrimination, are entitled to grant the same sorts of remedies as the High Courts.

Many informal avenues of recourse have also been provided by some States. These are often cheaper and quicker than the formal ones and are therefore essential to an individual already suffering disadvantage. The conciliatory machinery of Australia and New Zealand are examples of such avenues of recourse. Countries such as the Federal Republic of Germany, New Zealand and the United Kingdom also provide access via such specialized bodies as industrial or equal opportunity tribunals. The institution of the ombudsman in countries such as Austria, Denmark and Portugal provides a further avenue of recourse, while countries such as Portugal and Venezuela preserve the right of the individual to petition anybody in order to protect his or her rights and freedoms.

A number of specific measures have been undertaken by some States to facilitate access to recourse procedures for all sectors of the population. In Venezuela, the Constitution provides that there should be laws ensuring that even those without means will be able to enjoy access. In the United Kingdom, an individual contemplating or having actually commenced proceedings may seek assistance from the Commission for Racial Equality, which will grant it only if the circumstances of the case so warrant. As a further aid to complainants in pursuit of a case, the Secretary of State of the United

Kingdom is entitled to prescribe forms in which alleged discriminators should be questioned. With the same goal in mind, the Human Rights Commission of Australia and the Conciliator of New Zealand may undertake investigations, either on complaint or *suo motu*, if they feel it appropriate in the circumstances. The Human Rights Commission of Australia is also entitled to convene compulsory meetings in order to ascertain fully the facts of a disputed situation. Within the general intention of facilitating access for complainants, individuals in countries such as Mauritius, Nigeria and Tuvalu do not have to allege that they have been actual victims of discrimination; it is enough that they allege that they are likely to be. In Australia, it is indicated that, where civil proceedings are undertaken to seek a remedy, the individual has to prove his case to the reasonable satisfaction of the court only.

D. Remedies

Remedies in most countries consist of the possibility of obtaining redress for the violation of one's rights, as well as the possibility of ensuring that steps are taken to terminate ongoing infringements and to prohibit any potential infringements. In Mauritius and Nigeria, the courts are authorized to secure the enjoyment of rights by issuing such writs and making such orders and directions as they consider to be appropriate. Such wide discretion is also provided for in the United Kingdom, where complaint of racial discrimination may be pursued in court in the same manner as any claim in tort or for breach of statutory duty.

Some countries specify at least a few of the remedies available to individuals whose rights have been violated. In Hungary, for instance, an individual may apply to court to establish the commission of a wrong or for some other forms of satisfaction, such as a declaration by the wrongdoer. In Australia and Canada, specific performance may be sought in order to ensure that a person responsible for a discriminatory act takes measures to compensate for those actions. A variety of other measures may be applied for, some of which appear to be designed to restore the *status quo*. In Australia, for example, if the discrimination resulted in the making of a contract, such contract may be annulled or have its terms changed. In Canada, a complainant can ensure that opportunities and privileges one was formally denied should be made available.

Financial compensation is a frequent remedy. In Hungary, for instance, anyone offended in the enjoyment of his rights may apply to a court for damages. Such recourse is most often used to cover material losses such as, in the case of Australia, loss of benefits. In Canada one may claim for lost wages and expenses incurred in obtaining alternative goods and services where such losses were brought about by acts of discrimination.

Other remedies exist that are more suited to the termination of ongoing breaches or prohibiting potential ones. In New Zealand, for example, one may seek that an assurance be given to the conciliator that all discriminatory practices will be discontinued and will not be resumed in the future. In Australia, Canada and Hungary, one may apply for an injunction to prevent future breaches of one's rights. Although similar in object and effect, the latter remedy differs from the former in that it is imposed on the discriminator by a judicial body.

E. Penalties

In addition to declaring that individuals are entitled to enjoy certain rights free of discrimination, and providing remedies for those whose rights have been violated, some States have sought to secure the enjoyment of rights by imposing various types of penalties for certain acts of racial discrimination. For instance, in Brazil it is a punishable offence to refuse lodging or goods to another person on account of his race. In France and Norway also, discrimination in the provision of services is punishable. Many States punish individuals not only for acts of racial discrimination, but also for advocating or promoting racial discrimination, for example by acts of incitement, agitation and propaganda aimed at arousing racial hatred. Threats of violence, provocation and defamation with the same intent are also punished. Some States impose punishments even in the absence of intent; in the United Kingdom, an individual is punished for his actions if, having regard to all the circumstances, racial hatred was likely to be aroused by such actions. A similar law exists in Hungary. In the Netherlands, acts of incitement are punished if done with reasonable cause to suspect what their effect will be; if actual intent is proven, the punishment is doubled.

A wide variety of penalties are employed by States in their attempts to secure the general enjoyment of rights. In the Netherlands, for instance, if a person is convicted for discrimination in the course of his occupation twice within five years, such person may be barred from continuing the same occupation. Similarly, in Brazil, if it is found that discrimination is practised in allowing access to public service, the person in charge of the selection procedure is stripped of his functions. In Ecuador, where a public body is found to be engaging in acts of discrimination, the director is imprisoned and loses his political rights for the duration of the prison term. The conviction of an individual in Turkey for using an association to promote discrimination, even if he is later pardoned, bars that individual from subsequently forming another association. In Poland, if discriminatory views are expressed in a publication, the authorities are allowed to confiscate the instruments and objects employed in its production, even if they are not owned by the perpetrator.

However, the most widespread penalties for discrimination include prison sentences, such as may be imposed in Cyprus and Ecuador, or the payment of fines, as is provided for in countries like Finland and France. In Brazil, Denmark, the Islamic Republic of Iran and New Zealand the imposition of either one of these penalties is provided for, and in countries such as Dominica, the Federal Republic of Germany, Pakistan and the United Kingdom, the simultaneous imposition of both penalties for the same offence is allowed. In the Byelorussian Soviet Socialist Republic, for example, a term of either imprisonment or exile may be imposed, and in Czechoslovakia, some other reformatory measure may be applied instead of imprisonment.

Certain factors are viewed by some States as aggravating the normal offence of discrimination and therefore warranting the imposition of stiffer penalties. The use of violence is viewed in this way by such States as Bulgaria, Czechoslovakia, Ecuador and Hungary. Also, in Bulgaria, any individual who instigates, sets up or leads a mob or association to acts of discrimination is punished more severely than the ordinary members of such a group. In Austria, Cyprus, Pakistan and Poland, the use of publications or some other media to promote discrimination attracts greater punishment than would otherwise be the case. In many countries severe punishment is provided for persons guilty of genocide. In Czechoslovakia, such a crime is punished by seven times the term of imprisonment than is normally imposed for discrimination. In Finland and the Federal Republic of Germany, individuals convicted for genocide may be punished with life imprisonment, and in the Bahamas, Bulgaria, Czechoslovakia and Hungary the death penalty is provided.

F. Struggle against *apartheid*

Many States, in particular in their reports submitted under the International Convention on the Elimination of All Forms of Racial Discrimination, clearly stated their opposition to *apartheid* and referred to their legislation in that sense, including that establishing in national law the crime of *apartheid* and laws or decisions cutting off economic relations with South Africa. India provided the text of its Anti-*Apartheid* Act, which gives force of law to those provisions from the International Convention for the Suppression and Punishment of the Crime of *Apartheid* annexed to the Act, and Cuba submitted a text providing penalties for certain acts done for the purpose of instituting or maintaining the domination of one racial group over another. Bulgarian legislation provides penalties for the practice of *apartheid* and Venezuela reported that the International Convention on the Suppression and Punishment of the Crime of *Apartheid* had become part of Venezuelan internal law. Very severe penalties are imposed for the crime of

apartheid; for example, the death penalty is provided in Bulgaria and India and long prison sentences in Cuba.

Several States reported severing economic relations with South Africa in the context of their activities against racial discrimination. Denmark provided the text of a parliamentary resolution dated 20 May 1984 on tightening the policy of sanctions against South Africa, and of a bill on prohibition of new Danish investments in South Africa and Namibia. Qatar submitted legislation halting petroleum exports to South Africa and severing all economic, trade and commercial relations with that country.

II. GLOBAL COMPILATION OF NATIONAL LEGISLATION AGAINST RACIAL DISCRIMINATION

Australia

[*Original: English*]

Racial Discrimination Act 1975

Section 9. (1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

(2) The reference in subsection (1) to a human right or fundamental freedom in the political, economic, social, cultural or any other field of public life includes a reference to any right of a kind referred to in article 5 of the Convention.

(3) Subsection (1) does not apply in respect of the employment, or an application for the employment, of a person on a ship or aircraft (not being an Australian ship or aircraft) if that person was engaged, or applied, for that employment outside Australia.

Section 10. (1) If, by reason of, or of a provision of, a law of the Commonwealth or of a State or Territory, persons of a particular race, colour or national or ethnic origin do not enjoy a right that is enjoyed by persons of another race, colour or national or ethnic origin, or enjoy a right to a more limited extent than persons of another race, colour or national or ethnic origin, then, notwithstanding anything in that law, persons of the first-mentioned race, colour or national or ethnic origin shall, by force of this section, enjoy that right to the same extent as persons of that other race, colour or national or ethnic origin.

(2) A reference in subsection (1) to a right includes a reference to a right of a kind referred to in article 5 of the Convention.

(3) Where a law contains a provision that:

(*a*) Authorizes property owned by an Aboriginal or a Torres Strait Islander to be managed by another person without the consent of the Aboriginal or Torres Strait Islander; or

(*b*) Prevents or restricts an Aboriginal or a Torres Strait Islander from terminating the management by another person of property owned by the Aboriginal or Torres Strait Islander,

not being a provision that applies to persons generally without regard to their race, colour or national or ethnic origin, that provision shall be deemed to be a provision in relation to which subsection (1) applies and a reference in that subsection to a right includes a reference to a right of a person to manage property owned by him.

Section 11. It is unlawful for a person:

(*a*) To refuse to allow another person access to or use of any place or vehicle that members of the public are, or a section of the public is, entitled or allowed to enter or use, or to refuse to allow another person access to or use of any such place or vehicle except on less favourable terms or conditions than those upon or subject to which he would otherwise allow access to or use of that place or vehicle;

(*b*) To refuse to allow another person use of any facilities in any such place or vehicle that are available to members of the public or to a section of the public, or to refuse to allow another person use of any such facilities except on less favourable terms or conditions than those upon or subject to which he would otherwise allow use of those facilities; or

(*c*) To require another person to leave or cease to use any such place or vehicle or any such facilities,

by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

Section 12. (1) It is unlawful for a person, whether as a principal or agent:

(*a*) To refuse or fail to dispose of any estate or interest in land, or any residential or business accommodation, to a second person;

(*b*) To dispose of such an estate or interest or such accommodation to a second person on less favourable terms and conditions than those which are or would otherwise be offered;

(*c*) To treat a second person who is seeking to acquire or has acquired such an estate or interest or such accommodation less favourably than other persons in the same circumstances;

(*d*) To refuse to permit a second person to occupy any land or any residential or business accommodation; or

(*e*) To terminate any estate or interest in land of a second person or the right of a second person to occupy any land or any residential or business accommodation,

by reason of the race, colour or national or ethnic origin of that second person or of any relative or associate of that second person.

(2) It is unlawful for a person, whether as a principal or agent, to impose or seek to impose on another person any term or condition that limits, by reference to race, colour or national or ethnic origin, the persons or class of persons who may be the licensees or invitees of the occupier of any land or residential or business accommodation.

Section 13. It is unlawful for a person who supplies goods or services to the public or to any section of the public:

(*a*) To refuse or fail on demand to supply those goods or services to another person; or

(*b*) To refuse or fail on demand to supply those goods or services to another person except on less favourable terms or conditions than those upon or subject to which he would otherwise supply those goods or services,

by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

Section 14. (1) Any provision of the rules or other document constituting, or governing the activities of, a trade union that prevents or hinders a person from joining that trade union by reason of the race, colour or national or ethnic origin of that person is invalid.

(2) It is unlawful for a person to prevent or hinder another person from joining a trade union by reason of the race, colour or national or ethnic origin of that other person.

Section 15. (1) It is unlawful for an employer or a person acting or purporting to act on behalf of an employer:

(*a*) To refuse or fail to employ a second person on work of any description which is available and for which that second person is qualified;

(*b*) To refuse or fail to offer or afford a second person the same terms of employment, conditions of work and opportunities for training and promotion as are made available for other persons having the same qualifications and employed in the same circumstances on work of the same description; or

(*c*) To dismiss a second person from his employment,

by reason of the race, colour or national or ethnic origin of that second person or of any relative or associate of that second person.

(2) It is unlawful for a person concerned with procuring employment for other persons or procuring employees for any employer to treat any person seeking employment less favourably than other persons in the same circumstances by reason of the race, colour or national or ethnic origin of the person so seeking employment or of any relative or associate of that person.

(3) It is unlawful for an organization of employers or employees, or a person acting or purporting to act on behalf of such an organization, to pre-

vent, or to seek to prevent, another person from offering for employment or from continuing in employment by reason of the race, colour or national or ethnic origin of that other person or of any relative or associate of that other person.

(4) This section does not apply in respect of the employment, or an application for the employment, of a person on a ship or aircraft (not being an Australian ship or aircraft) if that person was engaged, or applied, for that employment outside Australia.

Section 16. It is unlawful for a person to publish or display, or cause or permit to be published or displayed, an advertisement or notice that indicates, or could reasonably be understood as indicating, an intention to do an act that is unlawful by reason of a provision of [part II of the Racial Discrimination Act].

Section 19. For the purpose of this Act there shall be a Commissioner for Community Relations.

Section 20. In addition to the functions of the Human Rights Commission under the Human Rights Commission Act 1981, that Commission has the following functions:

(*a*) To inquire into alleged infringements of part II, and endeavour to effect a settlement of the matters alleged to constitute those infringements, in accordance with section 21;

(*b*) To promote an understanding and acceptance of, and compliance with, this Act; and

(*c*) To develop, conduct and foster research and educational programmes and other programmes for the purpose of:

(i) Combating racial discrimination and prejudices that lead to racial discrimination;

(ii) Promoting understanding, tolerance and friendship among racial and ethnic groups; and

(iii) Propagating the purposes and principles of the Convention.

Section 20A. (1) Except where the office of Commissioner is vacant or the Commissioner is absent from duty or from Australia, the function of the Human Rights Commission under paragraph 20 (*a*) shall be performed by the Commissioner on behalf of that Commission.

(2) In the performance of a function on behalf of the Human Rights Commission, the Commissioner is subject to the directions of the Human Rights Commission.

Section 21. (1) Where:

(*a*) A complaint in writing is made to the Human Rights Commission that a person has done an act that is unlawful by reason of a provision of part II; or

(*b*) It appears to the Human Rights Commission that a person has done an act that is unlawful by reason of a provision of part II;

the Human Rights Commission shall, subject to subsection (2), inquire into the act and endeavour to effect a settlement of the matter to which the act relates.

(2) The Human Rights Commission may decide not to inquire into an act, or, if the Human Rights Commission has commenced to inquire into an act, decide not to continue to inquire into the act, if:

(*a*) A period of more than 12 months has elapsed since the act was done;

(*b*) The Human Rights Commission is of the opinion that:

(i) The matter to which the act related was trivial; or

(ii) The person alleged to be aggrieved by the act does not desire that the inquiry be made or continued, as the case may be; or

(*c*) In a case where the inquiry results from a complaint to the Human Rights Commission, the Human Rights Commission is of the opinion that:

(i) The complaint was frivolous or vexatious or was not made in good faith;

(ii) The complainant does not have a sufficient interest in the subject-matter of the complaint; or

(iii) There is some other remedy that is reasonably available to the complainant.

(3) Where the Human Rights Commission decides not to inquire into, or not to continue to inquire into, an act in respect of which a complaint was made, the Human Rights Commission shall inform the complainant of that decision and of the reasons for that decision.

Section 22. (1) For the purpose of inquiring into an act, or endeavouring to settle the matter to which an act relates, in accordance with subsection 21 (1), the Human Rights Commission may direct the persons referred to in subsection (2) of this section to attend, at a time and place specified in the direction, at a conference presided over by a member of that Commission, by a member of the staff of that Commission or by a person appointed by that Commission.

(1A) In relation to the performance, in a particular case, by a conciliation committee of a function of the Human Rights Commission under paragraph 20 (*a*), subsection (1) of this section has effect as if the reference to a conference presided over by a member of that Commission, by a member of the staff of that Commission or by a person appointed by that Commission

were a reference to a conference presided over by a member of that conciliation committee.

(2) Directions under subsection (1) shall be given to:

(*a*) A person who made a complaint under this Act in relation to the act;

(*b*) The person who is alleged to have done the act; and

(*c*) Any other person whose presence at the conference the person giving the direction thinks is likely to be conducive to the settlement of the matter to which the act relates.

(3) A person who has been given a direction under subsection (1) to attend at a conference is entitled to be paid by the Commonwealth a reasonable sum for the expenses of his attendance at the conference.

(4) A person who has been given a direction under subsection (1) to attend a conference shall not, without reasonable excuse:

(*a*) Fail to attend as required by the direction; or

(*b*) Fail to attend and report himself from day to day unless excused, or released, from further attendance by the person presiding over the conference.

Penalty: $250

(5) In any proceeding instituted under section 24, no evidence shall be given and no statements shall be made with respect to anything said or done at a conference held in pursuance of a direction given under this section.

Section 23. (1) The regulations may make provision for and in relation to the establishment of conciliation committees for the purposes of this Act.

(2) The function of the Human Rights Commission of endeavouring to effect a settlement of a matter in accordance with subsection 21 (1) may, with the consent of the Human Rights Commission, be performed by a conciliation committee and, when performed by such a committee, shall be deemed, for the purpose of the Act, to have been performed by the Human Rights Commission.

Section 24. (1) A person aggrieved by an act that he considers to have been unlawful by reason of a provision of part II may subject to this section institute a proceeding in relation to the act by way of civil action in a court of competent jurisdiction for any one or more of the remedies specified in section 25.

(2) A proceeding may not be instituted under this section in respect of the doing of an act (other than an act that is unlawful by virtue of section 16) in relation to:

(*a*) Accommodation in a dwelling-house or flat, being accommodation shared or to be shared, in whole or in part, with the person who did the act or a person on whose behalf the act was done or with a relative of either of those persons; or

(*b*) Employment, or an application for employment, in a dwelling-house or flat occupied by the person who did the act or a person on whose behalf the act was done or by a relative of either of those persons.

(3) A proceeding shall not be instituted under this section in respect of an act unless the person aggrieved has received, before the institution of the proceeding, a certificate signed by a member of the Human Rights Commission or by the Commissioner stating that:

(*a*) A member of the Human Rights Commission, the Commissioner, a member of a conciliation committee, a member of the staff of the Human Rights Commission, an officer or employee of the Commissioner or a person appointed by the Human Rights Commission or by the Commissioner has presided over a conference under subsection 22 (1) in respect of the act and has endeavoured to settle the matter to which the act related; or

(*b*) By reason of the failure of a person who has been given a direction under subsection 22 (1) to comply with the direction, such a conference has not been able to be held;

and that at the date of the certificate the matter has not been settled.

Section 25. Where, in a proceeding instituted under section 24, it is established to the reasonable satisfaction of the court that a person (in this section referred to as the "defendant") has done an act (in this section referred to as the "relevant act") that is unlawful by reason of a provision of part II, the court may grant all or any of the following remedies:

(*a*) An injunction restraining the defendant from repeating the relevant act, from doing an act of a similar kind or from causing or permitting others to do acts of the same or a similar kind;

(*b*) An order directing the defendant to do a specified act, being an act directed to:

(i) Placing a person aggrieved by the doing of the relevant act as nearly as practicable in the position in which he would be if the relevant act had not been done; or

(ii) Otherwise avoiding a detriment to such a person resulting from the doing of the relevant act;

(*c*) If the doing of the relevant act resulted in the making of a contract or the relevant act was done in pursuance of a contract — an order cancelling the contract, varying any of the terms of the contract or requiring the repayment, in whole or in part, of an amount paid in pursuance of the contract;

(*d*) Damages against the defendant in respect of:

(i) Loss suffered by a person aggrieved by the relevant act, including loss of any benefit that that person might reasonably have been expected to obtain if the relevant act had not been done; and

(ii) Loss of dignity by humiliation to, or injury to, the feelings of a person aggrieved by the relevant act; and

(*e*) Such other relief as the court thinks just.

Section 26. Except as expressly provided by this part, nothing in this Act makes it an offence to do an act or agree with another person to do an act that is unlawful by reason of a provision of part II.

Section 27. (1) A person shall not insult, hinder, obstruct, molest or interfere with a person exercising or performing any of the powers or functions referred to in sections 21 and 22 of this Act.

(2) A person shall not:

(*a*) Refuse to employ another person;

(*b*) Dismiss, or threaten to dismiss, another person from his employment;

(*c*) Prejudice, or threaten to prejudice, another person in his employment; or

(*d*) Intimidate or coerce, or impose any pecuniary or other penalty upon, another person,

by reason that the other person:

(*e*) Has made, or proposes to make, a complaint under this Act;

(*f*) Has furnished, or proposes to furnish, any information or documents to a person exercising or performing any powers or functions under this Act; or

(*g*) Has attended, or proposes to attend, a conference referred to in section 22.

Penalty: $500

Section 28. (1) For the purposes of this Act there is established a Community Relations Council.

(2) It is the function of the Council to advise, and make recommendations to, the Minister and the Human Rights Commission, either of its own motion or upon request made to it by the Minister or the Human Rights Commission, as the case may be, concerning:

(*a*) The observance and implementation of the Convention;

(*b*) The promotion of educational programs with respect to the observance of the Convention;

(*c*) The promotion of studies and research programs with respect to the observance and implementation of the Convention;

(*d*) The publication and dissemination of material to assist in the observance and implementation of the Convention;

(*e*) The promotion of understanding, tolerance and friendship among racial and ethnic groups; and

(*f*) Any other matter related to the observance or implementation of the Convention.

Austria

[*Original: English*]

Federal Constitution

Article 7. (1) All Federal citizens are equal before the law. There shall be no privileges of birth, status, class or religion.

Article 23. The State is liable for any injury which persons acting on its behalf in execution of the laws have culpably inflicted by illegal behaviour. Damages can be sought before the courts.

Article 26. (1) The Nationalrat is elected by the nation in accordance with the principles of proportional representation on the basis of equal, direct, secret and personal suffrage for men and women who have completed their nineteenth year of life on a set day prior to the election.

. . .

(4) Every person entitled to vote who has completed his/her twenty-first year of life on the set day prior to the election is eligible for election.

Basic Law of 1967

Article 3. Public functions are equally accessible to all nationals. The admissibility of foreigners is made dependent on the acquisition of Austrian nationality.

Article 18. Everyone has the right to choose his vocation and to train for it how and where he wishes.

Fundamental Law on the General Rights of Citizens

Article 19. All the nations in the State have equal rights, and each nation has an inviolable right to preserve and cultivate its nationality and language. The State recognizes the equal rights of all languages common in the country to be used in schools, offices and public life. In those regions where several nations live, public educational establishments shall be organized in such a manner that each of these nations receives the necessary means for instruction in its language without being compelled to learn a second language.

Constitutional law on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination adopted on 3 July 1973

Article 1. (1) Any form of racial discrimination—also if not already conflicting with article 7 of the Federal Constitution, as revised in 1929, and with article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Fed. Law. Gaz. 210/1958—shall be prohibited. The legislative and executive powers shall refrain from any discrimination on the sole ground of race, colour, descent or national or ethnic origin.

(2) Notwithstanding paragraph 1, particular rights may be granted to or particular obligations imposed upon Austrian nationals, in so far as this does not conflict with article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

* * *

In implementing article 5 (*f*) of the International Convention on the Elimination of All Forms of Racial Discrimination, a special penal provision has been introduced which reads: "Anyone who prevents a person's access to any place or service intended for the use of the general public exclusively on grounds of race or colour or national or ethnic origins or religious confession commits an offence and shall be punished . . .".

* * *

Penal Code

Section 282. (1) Anyone who incites others by printed works, radio or in another manner designed to reach the general public to commit an act punishable by law shall, unless he is liable to more severe punishment for

participating in the act (sect. 12), be punished by imprisonment of up to two years.

(2) Similarly, anyone who endorses, by the means described in paragraph 1, an act committed intentionally which is punishable by more than one year of imprisonment, in a manner designed to upset the general public's sense of justice or to incite others to commit such an act shall be punished.

Section 283. Anyone who requests or induces others publicly, in a manner that offends against the public order, to commit hostilities . . . against a group of persons distinguished by belonging to a race, nation, ethnic group or State, shall be punished by imprisonment of up to one year.

* * *

The Federal Act of 7 July 1976 on the Legal Status of Ethnic Groups in Austria (''Volksgruppengesetz''—Ethnic Groups Act) is based on two main principles, which are:

(*a*) Recognition of the fact that special measures are necessary to protect ethnic groups; and

(*b*) The right freely to declare adherence to an ethnic group.

* * *

Section 3. (1) Ethnic Advisory Councils shall be established with the Federal Chancellery to advise the Federal Government and the Federal Ministers in matters concerning ethnic groups. They shall protect and represent the overall cultural, social and economic interests of the ethnic group and shall be heard, in particular, before the enactment of legal provisions and in respect to general planning measures in the field of public assistance and promotion which affect the interests of the ethnic groups. The Ethnic Advisory Councils may also make proposals for the improvement of the situation of the ethnic groups and their members.

Compulsory Education Act

Article 1. (1) Under the terms of this section, all children who permanently reside in Austria shall be subject to compulsory education.

Code of Civil Procedure

Section 63.

. . .

(3) Unless otherwise stipulated under international agreements, legal aid—consisting mainly in assigning a counsel free of charge—may be accorded only on the condition of reciprocity; such reciprocity may be ensured either under international agreements or by actual practice.

Treaty of St. Germain

Article 63.

. . .

(2) All inhabitants of Austria shall have the right to practice publicly or privately any faith, religion or denomination, provided such practice is not incompatible with public order or good morals.

Article 68. In respect of public education, the Austrian Government shall grant reasonable facilities in towns and districts where a relatively large number of non-German speaking Austrian nationals reside, to ensure that for the children of these Austrian nationals instruction in the elementary schools shall be in their own language. This provision shall not prevent the Austrian Government from making German a compulsory subject in these schools.

In towns and districts where a relatively large number of Austrian nationals belonging to a racial, religious or linguistic minority reside, these minorities shall be guaranteed for their use and disposal a reasonable part of any amounts allocated out of public funds under State, communal or other budgets for educational, religious or charitable purposes.

State Treaty for the Re-establishment of an Independent and Democratic Austria, concluded in 1955

Article 6.

. . .

(2) Austria further undertakes that the laws in Austria shall not, either in their content or in their application, discriminate or entail any discrimination between persons of Austrian nationality on the ground of their race, sex, language or religion, whether in reference to their person, property, busi-

ness, professional or financial interests, status, political or civil rights or any other matter.

Article 7. (1) Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall enjoy the same rights on equal terms as all other Austrian nationals, including the right to their own organizations, meetings and press in their own language.

* * *

Alleged violations of the rights specified in Article 14 of the European Convention on Human Rights may be sued before Austrian courts. However, it is also possible to lodge a complaint with the European Commission of Human Rights. Furthermore Austria has accepted the compulsory jurisdiction of the European Court of Human Rights, to which the Commission may refer an individual's complaint.

Some 10 years ago, the institution of the Ombudsman was set up. Everybody may complain to the Ombudsman, alleging acts of maladministration by public authorities, provided the person is affected by these acts and has no legal remedy against them.

Bahamas

[*Original: English*]

Constitution

Article 15 entitles persons in the Bahamas to the fundamental rights and freedoms of the individual regardless of his race or colour, etc.

Article 26 states that no law shall make any provision which is discriminating either of itself or in its effect. It also provides that no person is to be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or public authority.

Genocide Act

A person commits the offence of genocide if he commits any act falling within the definition of genocide as contained in article II of the Genocide Convention, and set out in the schedule to the Act. That schedule provides that "genocide means . . . a racial or religious group . . . ." A person who commits an act of genocide is liable on conviction to be sentenced to death where the offence consists of killing a person, and otherwise to imprisonment.

Brazil

[*Original: English*]

Constitution

Article 153, paragraph 1. All are equal under the law, without discrimination of sex, race, profession, religious belief or political conviction.

. . .

Paragraph 8. The expression of thought or of political or philosophical conviction, as well as the dissemination of information without censorship are free, except as regards public entertainment and shows, and everyone shall be responsible, as provided by law, for abuses committed. The publication of books, newspapers and other periodicals is not subject to the permission of the authorities. However, propaganda of war, of the subversion of public order and of religious, race or class prejudice, or publications and manifestations contrary to morality or decency shall not be tolerated.

Article 165. The Constitution guarantees to the workers the following rights, beside others established by law for the improvement of their social condition:

. . .

III. Prohibition of differences in wages and in standards of admittance to a job on sex, colour or civil status.

Law 1390, of July 1951

Article 1. Shall be considered a criminal offence, punished according to the present law, the refusal by any commercial or educational establishment of any kind to lodge, serve, supply or accept anyone as a customer, buyer or student, due to race or colour prejudice.

Single paragraph. The Director, manager or [other person] responsible for the establishment shall be considered the offender.

Article 2. To refuse lodging in a hotel, guest house, inn or any other similar establishment, due to race or colour prejudice:

Penalty: Detention from three months to one year and fine of $Cz 5,000 to 20,000.

Article 3. To refuse selling goods in shops of any kind or serving customers in restaurants, bars, confectioneries and the like open to the public where beverages, soft drinks or sweet goods are served, due to race or colour prejudice:

Penalty: Detention from 15 days to 3 months or fine of $Cz 500 to 5,000.

Article 4. To refuse entrance in public, entertainment or sporting establishments, as well as in barbershops or hairdressing establishments, due to race or colour prejudice:

Penalty: Detention from 15 days to 3 months or fine of $Cz 500 to 5,000.

Article 5. To refuse registration to a student in an educational establishment, for any course, at any level, due to race or colour prejudice:

Penalty: Detention from three months to one year or fine of $Cz 500 to 5,000.

Single paragraph. In the case of an official establishment of education the penalty shall be the loss of functions to the offender whose responsibility shall be ascertained by normal investigation.

Article 6. To prevent the access of anyone to any position in the public service or to service in any branch of the armed forces, due to race or colour prejudice:

Penalty: Loss of functions to the official in charge of the office entrusted with the selection of candidates, after responsibility is ascertained by normal investigation.

Article 7. To refuse anyone a job or work in a State, mixed economy or concessionary enterprise, or in a private enterprise, due to race or colour prejudice:

Penalty: Detention from three months to one year and fine of $Cz 500 to 5,000 in the case of a private enterprise; loss of the functions to the responsible official in the other cases.

Article 8. If a private enterprise is recidivist the judge may apply the additional penalty of suspension of activity for a period not to exceed three months.

* * *

The prohibition of propaganda of race prejudice according to article 153, paragraph 8, of the Constitution has been incorporated in criminal legislation, which sets penalties of detention from one to four years for such an offence.

Bulgaria

[*Original: Russian*]

Constitution

Article 35. (1) All citizens of the People's Republic of Bulgaria are equal before the law.

(2) No privileges or limitations of rights based on nationality, origin, creed, sex, race, education or social or material status are allowed.

(3) The State secures the equality of citizens by creating conditions and opportunities for the exercise of their rights and the fulfilment of their obligations.

(4) Any propagation of racial, national or religious hatred or humiliation is forbidden and shall be punishable by law.

Criminal Code

Article 162. (1) Any person propagating or inciting racial or national hatred or enmity or racial discrimination shall be punished by deprivation of freedom for a term not exceeding three years, and by a public reprimand.

(2) A person who uses force against another or damages his property on grounds of his nationality, race, creed or political convictions shall be punished by deprivation of freedom for a term not exceeding three years and by a public reprimand.

(3) A person who sets up or leads an organization or group which has as its goal the commission of the acts referred to in the above paragraphs shall be punished by deprivation of freedom for a term of from one to six years and by a public reprimand.

(4) A person who is a member of such an organization or group shall be punished by deprivation of freedom for a term not exceeding three years and by a public reprimand.

(5) In respect to the crimes referred to in the above paragraphs, the court may also impose a sentence of enforced residence.

Article 163. (1) Persons participating in mobs which have as their goal attacks on a group of the population, individual citizens, or their property because of their nationality or race shall be punished as follows:

1. Instigators and leaders, by deprivation of freedom for a term not exceeding five years;

2. All other persons, by deprivation of freedom for a term not exceeding one year or by correctional labour.

(2) If the mob or any of the participants are armed, the following punishment shall be applied:

1. For instigators and leaders — deprivation of freedom for a term of from one to six years;

2. For all others — deprivation of freedom for a term not exceeding three years.

(3) If aggression is committed and results in serious bodily injury or death, the instigators and leaders shall be punished by deprivation of freedom for a term of from 3 to 15 years, and all other persons by deprivation of freedom for a term not exceeding five years, unless they are subject to a heavier penalty.

Article 416. (1) Any person who for the purpose of bringing about the complete or partial destruction of a national, ethnic, racial or religious group:

(*a*) Causes the death, serious bodily injury or permanent mental disorder of a member of such a group;

(*b*) Creates for the group living conditions which lead to their complete or partial physical destruction;

(*c*) Takes measures restricting the birth of children in such a group;

(*d*) Forcibly transfers children from one group to another,

shall be subject to punishment for genocide in the form of imprisonment for a term of 10 to 20 years or shall be sentenced to death.

(2) Any person who acts in such manner as to promote genocide shall be imprisoned for a term of from two to eight years.

(3) Any person who openly or directly incites genocide shall be punished by imprisonment for a term of from one to eight years.

Article 417. A person who for the purpose of establishing or maintaining domination or systematic subjugation of one racial group by another:

(*a*) Causes the death of or serious bodily harm to one or several persons belonging to that group; or

(*b*) Creates for such groups living conditions which lead to the complete or partial physical annihilation of the racial group;

shall be punished for practising *apartheid* by imprisonment for a term of from 10 to 20 years or by death.

Article 418. Any person who for the purposes indicated in the above articles:

(*a*) Unlawfully deprives members of any racial group of their freedom or obliges them to perform forced labour;

(*b*) Undertakes any measures aimed at preventing the participation of a racial group in the political, social, economic and cultural life of the country and deliberately creates conditions impeding the full development of that group, in particular by depriving its members of their fundamental human rights and freedoms;

(*c*) Undertakes any measures aimed at dividing the population along racial lines, through the establishment of separate reservations or ghettos, prohibition of mixed marriages between members of different racial groups or expropriation of their land;

(*d*) Deprives organizations or persons fighting against *apartheid* of their basic rights and fundamental freedoms;

shall be punished by imprisonment for a term of from 5 to 15 years.

Article 419. In accordance with the categories noted in the above articles, a person shall be punished if he knowingly allows his subordinate to commit a crime referred to in this section.

Byelorussian Soviet Socialist Republic

[*Original: Russian*]

Constitution adopted by the Supreme Soviet of the Byelorussian SSR and put into effect on 14 April 1978

Article 32. Citizens of the Byelorussian SSR are equal before the law without distinction on grounds of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type or nature of occupation, domicile or other circumstances.

The equal rights of citizens of the Byelorussian SSR are guaranteed in all spheres of economic, political, social and cultural life.

Article 34. Citizens of the Byelorussian SSR of differing races and nationalities have equal rights.

Article 35. Foreign citizens and stateless persons in the Byelorussian SSR are guaranteed the rights and freedoms provided by law, including the right to apply to a court and other State bodies for the protection of their personal, property, family and other rights.

Article 62. It is the duty of every citizen of the Byelorussian SSR to respect the national dignity of other citizens and to strengthen the friendship of the nations and nationalities of the multinational Soviet State.

Article 67. It is the internationalist duty of citizens of the Byelorussian SSR to promote friendship and co-operation with peoples of other lands and to help to maintain and strengthen world peace.

Criminal Code

Article 71. Violation of the equality of rights of nationalities and races: Propaganda or agitation for the purpose of arousing racial or national hostility or enmity and the direct or indirect restriction of the rights of, or the establishment of direct or indirect privileges for, citizens on grounds of their race or nationality shall be punishable by deprivation of freedom for a term of six months to three years, or by exile for two to five years.

Judicial system approved by the Act of November 1959

Article 5. Equality of citizens before the law and the courts: Justice in the Byelorussian SSR is administered on the principle of the equality of citizens before the law and the courts without distinction on grounds of social, property or occupational status, nationality or race, or religious belief.

Article 10. The language of judicial proceedings: In accordance with article 86 of the Constitution of the Byelorussian SSR, judicial proceedings in the Byelorussian SSR shall be conducted in Byelorussian or Russian, and persons who do not know the language in which they are being conducted shall be ensured the right to become fully acquainted with the materials in the case through an interpreter, and also the right to address the court in their native language.

Act on Elections to the Supreme Soviet of the Byelorussian SSR of 12 December 1978

Article 2. Universal suffrage: Deputies to the Supreme Soviet of the Byelorussian SSR shall be elected on the basis of universal suffrage: all citizens of the Byelorussian SSR who have attained the age of 18, with the exception of persons recognized in accordance with the law as insane, shall have the right to vote.

Any citizen of the Byelorussian SSR who has attained the age of 18 may be elected a Deputy to the Supreme Soviet of the Byelorussian SSR.

All direct or indirect limitations of the electoral rights of citizens of the Byelorussian SSR on grounds of origin, social or property status, race or nationality, sex, education, language, attitude to religion, length of residence in the locality concerned, or type or nature of occupation are prohibited.

Legislation of 25 December 1974 concerning national education

Article 3. The right of citizens of the Byelorussian SSR to education: In accordance with the Constitution of the USSR and the Constitution of the Byelorussian SSR, citizens of the Byelorussian SSR have the right to education.

This right is ensured by means of compulsory eight-year general education; the institution of universal secondary education; the broad development of vocational, specialized secondary, and higher education with instruction oriented towards life and the practice of communist construction; school instruction in the native language; expansion of the network of preschool and non-school institutions; the free provision of all forms of education; the system of State grants and other kinds of material assistance for pupils and students; and the organization of various types of vocational training and refresher training.

Article 4. Basic principles of national education in the Byelorussian SSR: In accordance with the fundamental principles of legislation of the USSR and the Union republics concerning national education, the basic principles of national education in the Byelorussian SSR are:

(1) Equality of all citizens of the USSR in the receipt of education without distinction on grounds of race or nationality, sex, attitude to religion or social or property status;

(2) Compulsory education for all children and young people;

(3) State and public character of all educational institutions;

(4) Freedom of choice of the language of instruction: instruction in the native language or in the language of another people of the USSR; . . .

Act of the Byelorussian Soviet Socialist Republic, Minsk, 2 February, concerning public discussion of important national issues in the Byelorussian SSR

Article 4. Participation in public discussion by citizens of the Byelorussian SSR: Citizens of the Byelorussian SSR shall be guaranteed the right to participate freely in the discussion of important State and social issues.

When the questions dealt with are of republic or local concern, citizens of the Byelorussian SSR have the right to participate directly, and also through social organizations, work collectives, residents' meetings, voluntary social organizations, meetings of members of military units, and the mass media.

All direct or indirect limitations of the right of citizens of the Byelorussian SSR to take part in such discussions on grounds of origin, social or property status, race or nationality, sex, education, language, attitude to religion, length of residence in the locality concerned, or type or nature of occupation are prohibited.

Canada

[*Original: English and French*]

Constitution Act, 1982

Section 3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

Section 15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, programme or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Section 24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

The Act is amended by adding thereto, immediately after section 35 thereof, the following section:

35.1 The Government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 2.1 of section 91 of the "Constitution Act, 1867", to section 25 of this Act or to this Part,

[*a*] a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and

[*b*] the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item.

Canadian Human Rights Act

Section 3. (1) For all purposes of this Act, race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability and conviction for which a pardon has been granted are prohibited grounds of discrimination.

Section 4. A discriminatory practice, as described in sections 5 to 13.1, may be the subject of a complaint under part III and anyone found to be engaging or to have engaged in a discriminatory practice may be made subject to an order as provided in sections 41 and 42.

Section 5. It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public

(*a*) To deny, or to deny access to, any such goods, service, facility or accommodation to any individual, or

(*b*) To differentiate adversely in relation to any individual, on a prohibited ground of discrimination.

Section 6. It is a discriminatory practice in the provision of commercial premises or residential accommodation:

(*a*) To deny occupancy of such premises or accommodation to any individual, or

(*b*) To differentiate adversely in relation to any individual, on a prohibited ground of discrimination.

Section 7. It is a discriminatory practice, directly or indirectly,

(*a*) To refuse to employ or continue to employ any individual, or

(*b*) In the course of employment, to differentiate adversely in relation to any employee,

on a prohibited ground of discrimination.

Section 8. It is a discriminatory practice:

(*a*) To use or circulate any form of application for employment, or

(*b*) In connection with employment or prospective employment,

(i) To publish any advertisement, or

(ii) To make any written or oral inquiry

that expresses or implies any limitation, specification or preference based on a prohibited ground of discrimination.

Section 9. (1) It is a discriminatory practice for an employee organization on a prohibited ground of discrimination

(*a*) To exclude an individual from full membership in the organization;

(*b*) To expel or suspend a member of the organization; or

(*c*) To limit, segregate, classify or otherwise act in relation to an individual in a way that would

(i) Deprive the individual of employment opportunities, or

(ii) Limit employment opportunities or otherwise adversely affect the status of the individual,

where the individual is a member of the organization or where any of the obligations of the organization pursuant to a collective agreement relate to the individual.

Section 10. It is a discriminatory practice for an employer, employee organization or organization of employers

(*a*) To establish or pursue a policy or practice, or

(*b*) To enter into an agreement affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any other matter relating to employment or prospective employment,

that deprives or tends to deprive an individual or class of individuals of any employment opportunities on a prohibited ground of discrimination.

Section 12. It is a discriminatory practice to publish or display before the public or to cause to be published or displayed before the public any notice, sign, symbol, emblem or other representation that

(*a*) Expresses or implies discrimination or an intention to discriminate, or

(*b*) Incites or is calculated to incite others to discriminate

if the discrimination expressed or implied, intended to be expressed or implied or incited or calculated to be incited would otherwise, if engaged in, be a discriminatory practice described in any of sections 5 to 11 or in section 13.1. 1976-77, c. 33, s. 12; 1980-81-82-83, c. 143, s. 6.

Section 13. (1) It is a discriminatory practice for a person or a group of persons acting in concert to communicate telephonically or to cause to be so communicated, repeatedly, in whole or in part by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament, any matter that is likely to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination.

Section 13.1. (1) It is a discriminatory practice:

(*a*) In the provision of goods, services, facilities or accommodation customarily available to the general public,

(*b*) In the provision of commercial premises or residential accommodation, or

(*c*) In matters related to employment,

to harass an individual on a prohibited ground of discrimination.

Section 15. (1) It is not a discriminatory practice for a person to adopt or carry out a special program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, national or ethnic origin, colour, religion, age, sex, marital status, family status, or disability of members of that group, by improving opportunities respecting goods, services, facilities, accommodation or employment in relation to that group.

(2) The Canadian Human Rights Commission established by section 21 may at any time

(*a*) Make general recommendations concerning desirable objectives for special programs, plans or arrangements referred to in subsection (1); and

(*b*) On application, give such advice and assistance with respect to the adoption or carrying out of a special program, plan or arrangement referred to in subsection (1) as will serve to aid in the achievement of the objectives the program, plan or arrangement was designed to achieve.

Section 21. (1) A commission is hereby established to be known as the Canadian Human Rights Commission (hereinafter in this Act referred to as the "Commission") consisting of a Chief Commissioner, a Deputy Chief Commissioner and not less than three or more than six other members, to be appointed by the Governor in Council.

Section 22. (1) In addition to its duties under part III with respect to complaints regarding discriminatory practices, the Commission is generally responsible for the administration of parts I, II and III and

(*a*) Shall develop and conduct information programs to foster public understanding of this Act and of the role and activities of the Commission thereunder and to foster public recognition of the principles described in section 2;

(*b*) Shall undertake or sponsor research programs relating to its duties and functions under this Act and respecting the principles described in section 2.

. . .

(*g*) Shall, so far as is practical and consistent with the application of part III, endeavour by persuasion, publicity or any other means that it con-

siders appropriate to discourage and reduce discriminatory practices referred to in sections 5 to 13.1.

Section 25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

(*a*) Any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

(*b*) Any rights or freedoms that now exist by way of land claims agreements or may be so acquired (as amended by the Constitutional Amendment Proclamation 1983).

Section 26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

Section 27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

Section 31. . . ., a "discriminatory practice" means any practice that is a discriminatory practice within the meaning of sections 5 to 13.1.

Section 32. (1) Subject to subsections (5) and (6), any individual or group of individuals having reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice may file with the Commission a complaint in a form acceptable to the Commission.

(2) If a complaint is made by someone other than the individual who is alleged to be the victim of the discriminatory practice to which the complaint relates, the Commission may refuse to deal with the complaint unless the alleged victim consents thereto.

(3) Where the Commission has reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice, the Commission may initiate a complaint.

(4) Where complaints are filed jointly or separately by more than one individual or group alleging that a particular person is engaging or has engaged in a discriminatory practice or a series of similar discriminatory practices and the Commission is satisfied that the complaints involved substantially the same issues of fact and law, it may deal with such complaints together under this Part and may request the President of the Human Rights Tribunal Panel to appoint a single Human Rights Tribunal pursuant to section 39 to inquire into such complaints.

Section 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, "aboriginal peoples of Canada" includes the Indians, Inuit and Métis peoples of Canada.

Section 35 of the "Constitution Act, 1982" is amended by adding thereto the following subsections:

[3] For greater certainty, in subsection [1] "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

[4] Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection [1] are guaranteed equally to male and female persons.

Section 41. (1) If, at the conclusion of its inquiry, a Tribunal finds that the complaint to which the inquiry relates is not substantiated, it shall dismiss the complaint.

(2) If, at the conclusion of its inquiry, a Tribunal finds that the complaint to which the inquiry relates is substantiated, subject to subsection (4) and section 42, it may make an order against the person found to be engaging or to have engaged in the discriminatory practice and include in such order any of the following terms that it considers appropriate:

(*a*) That such person cease such discriminatory practice and, in order to prevent the same or a similar practice from occurring in the future, take measures, including

(i) Adoption of a special program, plan or arrangement referred to in subsection 15(1), or

(ii) The making of an application for approval and the implementing of a plan pursuant to section 15.1,

in consultation with the Commission on the general purposes of those measures;

(*b*) That such person make available to the victim of the discriminatory practice on the first reasonable occasion such rights, opportunities or privileges as, in the opinion of the Tribunal, are being or were denied the victim as a result of the practice;

(*c*) That such person compensate the victim, as the Tribunal may consider proper, for any or all of the wages that the victim was deprived of and any expenses incurred by the victim as a result of the discriminatory practice; and

(*d*) That such person compensate the victim, as the Tribunal may consider proper, for any or all additional cost of obtaining alternative goods, services, facilities or accommodation and any expenses incurred by the victim as a result of the discriminatory practice.

(3) In addition to any order that the Tribunal may make pursuant to subsection (2), if the Tribunal finds that

(*a*) A person is engaging or has engaged in a discriminatory practice wilfully or recklessly, or

(*b*) The victim of the discriminatory practice has suffered in respect of feelings or self-respect as a result of the practice,

the Tribunal may order the person to pay such compensation to the victim, not exceeding five thousand dollars, as the Tribunal may determine.

The Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, is amended by adding thereto, immediately after section 281 thereof, the following sections:

Section 281.1. (1) Everyone who advocates or promotes genocide is guilty of an indictable offence and is liable to imprisonment for five years.

(2) In this section "genocide" means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely:

(*a*) Killing members of the group, or

(*b*) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

(3) No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

(4) In this section "identifiable group means any section of the public distinguished by colour, race, religion or ethnic origin.

Section 281.2. (1) Everyone who, by communicating statements in any public place, incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace, is guilty of

(*a*) An indictable offence and is liable to imprisonment for two years; or

(*b*) An offence punishable on summary conviction.

(2) Everyone who, by communicating statements, other than in private conversation, wilfully promotes hatred against any identifiable group is guilty of

(*a*) An indictable offence and is liable to imprisonment for two years; or

(*b*) An offence punishable on summary conviction.

Section 281.3. (1) A judge who is satisfied by information upon oath that there are reasonable grounds for believing that any publication, copies of which are kept for sale or distribution in premises within the jurisdiction of the court, is hate propaganda, shall issue a warrant under his hand authorizing seizure of the copies.

(2) Within seven days of the issue of the warrant, the judge shall issue a summons to the occupier of the premises requiring him to appear before

the court and show cause why the matter seized should not be forfeited to Her Majesty.

(3) The owner and the author of the matter seized and alleged to be hate propaganda may appear and be represented in the proceedings in order to oppose the making of an order for the forfeiture of the said matter.

(4) If the court is satisfied that the publication is hate propaganda, it shall make an order declaring the matter forfeited to Her Majesty in right of the province in which the proceedings take place, for disposal as the Attorney General may direct.

Canadian Employment Equity Act

Section 4. An employer shall, in consultation with such persons as have been designated by the employees to act as their representatives or, where a bargaining agent represents the employees, in consultation with the bargaining agent, implement employment equity by

(*a*) Identifying and eliminating each of the employer's employment practices, not otherwise authorized by a law, that results in employment barriers against persons in designated groups; and

(*b*) Instituting such positive policies and practices and making such reasonable accommodation as will ensure that persons in designated groups achieve a degree of representation in the various positions of employment with the employer that is at least proportionate to the representation

(i) In the work force, or

(ii) In those segments of the work force that are identifiable by qualification, eligibility or geography and from which the employer may reasonably be expected to draw or promote employees.

Canadian Public Service Employment Act

Section 10. Appointments to or from within the Public Service shall be based on selection according to merit, as determined by the Commission, and shall be made by the Commission, at the request of the deputy head concerned, by competition or by such other process of personnel selection designed to establish the merit of candidates as the Commission considers is in the best interests of the Public Service.

Section 12.

. . .

(2) The Commission, in prescribing selection standards under subsection (1), shall not discriminate against any person by reason of sex, race, national origin, colour or religion.

Section 139.

. . .

(2) The Commission shall:

. . .

(*b*) Ensure that in referring a worker seeking employment there will be no discrimination on a prohibited ground of discrimination within the meaning of the Canadian Human Rights Act or because of political affiliation, but nothing in this paragraph prohibits the national employment service from giving effect to:

(i) Any limitation, specification or preference based on a *bona fide* occupational requirement; or

(ii) Any special program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by, any group of individuals when those disadvantages would be or are based on or related to the race, national or ethnic origin, colour, religion, age, sex, marital status, family status or disability of members of that group by improving opportunities respecting employment in relation to such group if that specific program, plan or arrangement is one that is not a discriminatory practice within the meaning of the Canadian Human Rights Act by virtue of section 15 thereof.

China

[*Original: Chinese and English*]

Constitution

Article 4. All nationalities in the People's Republic of China are equal. The State protects the lawful rights and interests of the minority nationalities and upholds and develops a relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality are prohibited; any act which undermines the unity of the nationalities or instigates division is prohibited.

The State assists areas inhabited by minority nationalities in accelerating their economic and cultural development according to the characteristics and needs of the various minority nationalities.

Regional autonomy is practised in areas where people of minority nationalities live in concentrated communities; in these areas organs of self-government are established to exercise the power of autonomy. All national autonomous areas are integral parts of the People's Republic of China.

All nationalities have the freedom to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs.

Article 33. All persons holding the nationality of the People's Republic of China are citizens of the People's Republic of China.

All citizens of the People's Republic of China are equal before the law.

Every citizen is entitled to the rights and at the same time must perform the duties prescribed by the Constitution and the law.

Article 34. All citizens of the People's Republic of China who have reached the age of 18 have the right to vote and stand for election, regardless of ethnic status, race, sex, occupation, family background, religious belief, education, property status or length of residence, except persons deprived of political rights according to law.

Article 35. Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.

Article 59. The National People's Congress is composed of deputies elected from the provinces, autonomous regions and municipalities directly under the Central Government and of deputies elected from the armed forces. All the minority nationalities are entitled to appropriate representation.

Election of deputies to the National People's Congress is conducted by the Standing Committee of the National People's Congress.

The number of deputies to the National People's Congress and the procedure of their election are prescribed by law.

Article 89. The State Council exercises the following functions and powers:

. . .

(11) To direct and administer affairs concerning the nationalities and to safeguard the equal rights of minority nationalities and the right to autonomy of the national autonomous areas;

Article 113. In the people's congress of an autonomous region, autonomous prefecture or autonomous county, in addition to the deputies of the nationality exercising regional autonomy in the administrative area, the other nationalities inhabiting the area are also entitled to appropriate representation.

Among the chairman and vice-chairmen of the standing committee of the people's congress of an autonomous region, autonomous prefecture or autonomous county there shall be one or more citizens of the nationality or nationalities exercising regional autonomy in the area concerned.

Article 119. The organs of self-government of the national autonomous areas independently administer educational, scientific, cultural, public health and physical culture affairs in their respective areas, protect and sift through the cultural heritage of the nationalities and work for a vigorous development of their cultures.

Article 122. The State provides financial, material and technical assistance to the minority nationalities to accelerate their economic and cultural development.

The State helps the national autonomous areas train large numbers of cadres at various levels and specialized personnel and skilled workers of various professions and trades from among the nationality or nationalities in those areas.

Article 134. Citizens of all China's nationalities have the right to use their native spoken and written languages in court proceedings. The people's courts and people's procuratorates should provide translation for any party to the court proceedings who is not familiar with the spoken or written languages commonly used in the locality.

In an area where people of a minority nationality live in a concentrated community or where a number of nationalities live together, court hearings should be conducted in the language or languages commonly used in the locality; indictments, judgements, notices and other documents should be written, according to actual needs, in the language or languages commonly used in the locality.

Law of the People's Republic of China on Regional National Autonomy

Article 2. Regional autonomy shall be practised in areas where minority nationalities live in concentrated communities.

National autonomous areas shall be classified into autonomous regions, autonomous prefectures and autonomous counties.

All national autonomous areas are integral parts of the People's Republic of China.

Article 5. The organs of self-government of national autonomous areas must uphold the unity of the country and guarantee that the Constitution and other laws are observed and implemented in these areas.

Article 6. The organs of self-government of national autonomous areas shall lead the people of the various nationalities in a concentrated effort to promote socialist modernization.

On the principle of not contravening the Constitution and the laws, the organs of self-government of national autonomous areas shall have the power to adopt special policies and flexible measures in the light of local conditions to speed up the economic and cultural development of these areas.

Under the guidance of State plans and on the basis of actual conditions, the organs of self-government of national autonomous areas shall steadily increase labour productivity and economic results, develop social productive forces and gradually raise the material living standards of the people of the various nationalities.

The organs of self-government of national autonomous areas shall inherit and carry forward the fine traditions of national cultures, build a Socialist society with an advanced culture and ideology and with national characteristics, and steadily raise the Socialist consciousness and scientific and cultural levels of the people of the various nationalities.

Article 16. In the people's congress of a national autonomous area, in addition to the deputies from the nationality exercising regional autonomy in the administrative area, the other nationalities inhabiting the area are also entitled to appropriate representation.

The number and proportion of deputies to the people's congress of a national autonomous area from the nationality exercising regional autonomy and from the other minority nationalities shall be decided upon by the standing committee of the people's congress of a province or an autonomous region, in accordance with the principles prescribed by law, and shall be reported to the Standing Committee of the National People's Congress for the record.

Among the chairman and vice-chairmen of the standing committee of the people's congress of a national autonomous area shall be one or more citizens of the nationality exercising regional autonomy in the area.

Article 17. The chairman of an autonomous region, the prefect of an autonomous prefecture or the head of an autonomous county shall be a citizen of the nationality exercising regional autonomy in the area concerned. Other posts in the people's government of an autonomous region, an autonomous prefecture or an autonomous county should, whenever possible, be assumed by people of the nationality exercising regional autonomy and of other minority nationalities in the area concerned.

The people's governments of national autonomous areas shall apply the system of giving overall responsibility to the chairman of an autonomous

region, the prefect of an autonomous prefecture or the head of an autonomous county, who shall direct the work of the people's governments at their respective levels.

Article 22. In accordance with the needs of socialist construction, the organs of self-government of national autonomous areas shall take various measures to train large numbers of cadres at different levels and various kinds of specialized personnel, including scientists, technicians and managerial executives, as well as skilled workers from among the local nationalities, giving full play to their roles, and shall pay attention to the training of cadres at various levels and specialized and technical personnel of various kinds from among the women of minority nationalities.

The organs of self-government of national autonomous areas may adopt special measures to provide preferential treatment and encouragement to specialized personnel joining in the various kinds of construction in these areas.

Article 23. When recruiting personnel, enterprises and institutions in national autonomous areas shall give priority to minority nationalities and may enlist them from the population of minority nationalities in rural and pastoral areas. When recruiting personnel from the population of minority nationalities in rural and pastoral areas, autonomous prefectures and autonomous counties must report to and secure the approval of the people's governments of the provinces or autonomous regions.

Article 37. The organs of self-government of national autonomous areas shall independently develop education for the nationalities by eliminating illiteracy, setting up various kinds of schools, spreading compulsory primary education, developing secondary education and establishing specialized schools for the nationalities, such as teachers' schools, secondary technical schools, vocational schools and institutes of nationalities to train specialized personnel from among the minority nationalities.

The organs of self-government of national autonomous areas may set up public primary schools and secondary schools, mainly boarding schools and schools providing subsidies, in pastoral areas and economically underdeveloped, sparsely populated mountain areas inhabited by minority nationalities.

Schools where most of the students come from minority nationalities should, whenever possible, use textbooks in their own languages and use these languages as the media of instruction. Classes for the teaching of Chinese (the Han language) shall be opened for senior grades of primary schools or for secondary schools to popularize "putonghua", the common speech based on Beijing pronunciation.

Article 38. The organs of self-government of national autonomous areas shall independently develop literature, art, the press, publishing, radio

broadcasting, the film industry, television and other cultural undertakings in forms and with characteristics unique to the nationalities.

The organs of self-government of national autonomous areas shall collect, sort out, translate and publish books of the nationalities and protect the scenic spots and historical sites in their areas, their precious cultural relics and their other important historical and cultural legacies.

Article 40. The organs of self-government of national autonomous areas shall make independent decisions on plans for developing local medical and health services and for advancing both modern medicine and the traditional medicine of the nationalities.

The organs of self-government of national autonomous areas shall see to a more effective prevention and treatment of endemic diseases, provide better protection for the health of women and children, and improve sanitary conditions.

Article 45. The organs of self-government of national autonomous areas shall protect and improve the living environment and the ecological environment and shall prevent and control pollution and other public hazards.

Article 48. The organ of self-government of a national autonomous area shall guarantee equal rights for the various nationalities in the area.

The organ of self-government of a national autonomous area shall unite the cadres and masses of the various nationalities and give full play to their initiative in a joint effort to develop the area.

Article 49. The organ of self-government of a national autonomous area shall persuade and encourage cadres of the various nationalities to learn each other's spoken and written languages. Cadres of Han nationality should learn the spoken and written languages of the local minority nationalities. While learning and using the spoken and written languages of their own nationalities, cadres of minority nationalities should also learn "putonghua" and the written Chinese (Han) language commonly used throughout the country.

Awards should be given to State functionaries in national autonomous areas who can use skillfully two or more spoken or written languages that are commonly used in the locality.

Article 50. The organ of self-government of a national autonomous area shall help other minority nationalities living in concentrated communities in the area establish appropriate autonomous areas or nationality townships.

The organ of self-government of a national autonomous area shall help the various nationalities in the area develop their economic, educational, scientific, cultural, public health and physical culture affairs.

The organ of self-government of a national autonomous area shall give consideration to the characteristics and needs of nationalities living in settlements scattered over the area.

Article 51. In dealing with special issues concerning the various nationalities within its area, the organ of self-government of a national autonomous area must conduct full consultation with their representatives and respect their opinions.

Article 52. The organ of self-government of a national autonomous area shall guarantee that citizens of the various nationalities in the area enjoy the rights of citizens prescribed in the Constitution and shall educate them in the need to perform their duties as citizens.

Article 53. The organ of self-government of a national autonomous area shall promote the civic virtues of love of the motherland, of the people, of labour, of science and of socialism and conduct education among the citizens of the various nationalities in the area in patriotism, communism and State policies concerning the nationalities. The cadres and masses of the various nationalities must be educated to trust, learn from and help one another and to respect the spoken and written languages, folkways and customs and religious beliefs of one another in a joint effort to safeguard the unification of the country and the unity of all the nationalities.

Article 55. State organs at higher levels shall provide financial, material and technical assistance to national autonomous areas to accelerate their economic and cultural development.

In making plans for national economic and social development, State organs at higher levels should take into consideration the characteristics and needs of national autonomous areas.

Article 65. State organs at higher levels shall help national autonomous areas speed up the development of education and raise the scientific and cultural levels of the people of local nationalities.

The State shall set up institutes of nationalities and, in other institutions of higher education, nationality-oriented classes and preparatory classes that enrol only students from minority nationalities. Preferred enrolment and preferred assignment of jobs may also be introduced. In enrolment, institutions of higher education and secondary technical schools shall appropriately set lower standards and requirements for the admission of students from minority nationalities.

Article 15. The number of deputies to the National People's Congress to be elected by minority nationalities shall be allocated by the Standing Committee of the National People's Congress, in the light of the population and distribution of each minority nationality, to the people's congresses of the various provinces, autonomous regions, and municipalities directly under the central Government, which shall elect them accordingly. Nationalities with exceptionally small populations shall each have at least one deputy.

Article 16. In areas where minority nationalities live in concentrated communities, each minority nationality shall have its deputy or deputies sit in the local people's congress.

Where the total population of a minority nationality in such an area exceeds 10 per cent of the total local population, the number of people represented by each deputy of that minority nationality shall be equal to the number of people represented by each of the other deputies to the local people's congress.

Where the total population of a minority nationality in such an area is less than 10 per cent of the total local population, the number of people represented by each deputy of that minority nationality may be less than, but not less than half, the number of people represented by each of the other deputies to the local people's congress. Nationalities with exceptionally small populations shall also each have one deputy.

Article 17. In autonomous regions, autonomous prefectures and autonomous counties, and in people's communes and towns where a certain minority nationality lives in a concentrated community, the provisions of Article 16 of this Law shall apply to the election to the local people's congress of deputies of other minority nationalities and the Han nationality also living in concentrated communities in such areas.

Article 18. With respect to minority nationalities living in scattered groups, the number of people represented by each of their deputies to the local people's congresses may be less than the number of people represented by each of the other deputies to such congresses.

In autonomous regions, autonomous prefectures and autonomous counties, and in people's communes and towns where a certain minority nationality lives in a concentrated community, the provisions of the preceding paragraph shall apply to the election to the local people's congresses of deputies of other minority nationalities and the Han nationality living in scattered groups in such areas.

Article 19. In cities, municipal districts, counties, people's communes and towns where various minority nationalities live in concentrated communities, the minority nationality electorates may vote separately or jointly in the election of deputies to the local people's congress, depending on the relations between the nationalities, and their residential situation in the localities.

In autonomous regions, autonomous prefectures and autonomous counties, and in people's communes and towns where a certain minority nationality lives in a concentrated community, the provisions of the preceding paragraph shall apply to the election to the respective people's congresses of deputies of other minority nationalities and the Han nationality living in such areas.

Article 20. The electoral documents, roll of voters, voter registration cards, list of candidates for deputies, deputies election certificates and election committee seals made or published by autonomous regions, autonomous prefectures and autonomous counties shall be in the written languages of the nationalities commonly used in the locality.

Organic Law of the Local People's Congress and Local People's Governments of the People's Republic of China (Amended)

Article 35. A local people's government at or above the county level shall exercise the following functions and powers:

. . .

(8) To safeguard the rights of minority nationalities and respect their folkways and customs. A provincial people's government shall also assist those areas where minority nationalities live in concentrated communities within its sphere of jurisdiction to exercise regional autonomy, and it shall assist the various minority nationalities in their political, economic and cultural development.

Organic Law of the People's Courts of the People's Republic of China

Article 5. In judicial proceedings in the people's courts, the law shall be applied equally to all citizens, regardless of ethnic status, race, sex, occupation, family background, religious belief, education, property status or length of residence. No privilege whatsoever shall be allowed.

Criminal Law of the People's Republic of China

Article 147. Any State functionary who unlawfully deprives citizens of their legitimate freedom of religious belief and infringes upon the customs and habits of minority nationalities, if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than two years or criminal detention.

Nationality Law of the People's Republic of China

Article 2. The People's Republic of China is a unitary multinational State; persons belonging to any of the nationalities in China shall have Chinese nationality.

Law of Succession of the People's Republic of China

Article 35. The people's congress of a national autonomous area may, in accordance with the principles of this Law and the actual practices of the local nationality or nationalities with regard to property inheritance, enact adaptive or supplementary provisions. Provisions made by autonomous regions shall be reported to the Standing Committee of the National People's Congress for the record. Provisions made by autonomous prefectures or autonomous counties shall become effective after being reported to and approved by the standing committee of the people's congress of the relevant province or autonomous region and shall be reported to the Standing Committee of the National People's Congress for the record.

Marriage Law of the People's Republic of China

Article 36. The people's congress of national autonomous areas and their standing committees may formulate certain adaptations or supplementary provisions in keeping with the principles of this Law and in the light of the specific conditions of the local nationalities in regard to marriage and family. Provisions formulated by autonomous prefectures and autonomous counties must be submitted to the standing committee of the people's congress of the relevant province or autonomous region for approval. Provisions formulated by autonomous regions must be submitted to the Standing Committee of the National People's Congress for the record.

Article 6. Schools shall promote the use of "putonghua" (common speech based on Beijing pronunciation), which is in common use throughout the nation.

Schools in which the majority of students are of minority nationalities may use the spoken and written languages of those nationalities in instruction.

Article 12. The State Council and the local people's governments at various levels shall be responsible for raising funds for the operating expenses and capital construction investment needed for the implementation of compulsory education, and the funds must be fully guaranteed.

State appropriations for compulsory education shall increase at a faster rate than regular state revenues, and the average expenditure on education per student shall also increase steadily.

In accordance with the provisions of the State Council, the local people's governments at various levels shall levy a surtax for education, which shall be used mainly for compulsory education.

The State shall subsidize those areas that are unable to introduce compulsory education because of financial difficulties.

The State shall encourage individuals and all segments of society to make donations to help develop education.

The State shall assist areas inhabited by minority nationalities to implement compulsory education by providing them with teachers and funds.

Law of the People's Republic of China on the Protection of Cultural Relics

Article 2. The State shall place under its protection, within the boundaries of the People's Republic of China, the following cultural relics of historical, artistic or scientific value:

. . .

(5) Typical material objects reflecting the social system, social production or the life of various nationalities in different historical periods.

Colombia

[*Original: Spanish*]

Constitution

Article 16 stipulates that the authorities of the Republic are established to protect the lives, honour and property of all persons residing in Colombia, and to ensure fulfilment of the social duties of the State and of private individuals.

Article 19. Social security is a function of the State. It shall be provided to those who, lacking the means of subsistence and the right to demand it of other persons, are physically unable to work.

Article 23. No person may be . . . imprisoned, arrested or detained . . . except upon a written warrant issued by a competent authority, in accordance with all the legal formalities and on grounds previously defined by law.

Article 24. Anyone caught *in flagrante delicto* may be arrested and taken before the judge by any person.

Article 26. No person may be tried except in conformity with laws enacted prior to the commission of the offence with which he is charged, by courts having competent jurisdiction, and in accordance with all formalities relevant to the case.

Article 29. Every person is free to choose a profession or trade. The law may require certificates of competence and may regulate the exercise of the professions.

Article 41 guarantees freedom of education. The State, however, has the right to final inspection and supervision of institutions of learning, public and private, in order to ensure the fulfilment of the social purposes of culture and the fullest intellectual, moral and physical development of students.

Article 46. Any number of people may meet or assemble peacefully. The authorities may disperse any assembly which degenerates into disorder or riot, or which obstructs the public thoroughfare.

Article 53. The State guarantees freedom of conscience. No one shall be molested by reason of his religious opinions, or compelled to profess beliefs or observe practices contrary to his conscience.

Article 168 provides that men and women over 18 years of age may vote in Colombia, without discrimination, with the exception of male and female military personnel in active service.

Penal Code

Article 290. Any person who, through violence or dishonest conduct, secures the withdrawal of employees or workers from the institutions where they work, or by the same means disrupts or prevents the free exercise of the activity of another person, shall be liable to . . .

Article 294. Violation of freedom of worship. Any person who, by means of violence, compels another person to perform a religious act or prevents him from participating in a rite of the same nature shall be liable to imprisonment for 3 to 18 months.

Article 295. Prevention or disruption of the celebration of a religious rite. Any person who prevents or disrupts the celebration of a religious rite or function of any cult permitted in the nation shall be liable to imprisonment for six months to two years.

Article 296. Damages or insults to persons engaged in, or objects intended for, religious worship. Any person who causes damage to objects intended for religious worship or to the symbols of any legally permitted religion or who publicly insults such worship or ministers of religion because of their office shall be liable to imprisonment for three months to one year.

Substantive Labour Code

Article 8. No person may prevent others from working or from engaging in the profession, industry or trade of their choice, provided that its exercise is lawful, except by a decision of a competent authority intended to protect the rights of workers or of society in the cases provided for by law.

* * *

Under article 353 the State guarantees employers, workers and self-employed persons the right to freedom of association in order to defend their interests by forming occupational associations or trade unions, which are guaranteed the right to unite or to defend themselves collectively.

Code of the Political and Municipal Régime

Article 57. The laws are binding on all inhabitants of Colombia, including aliens, whether domiciled or in transit, except in the case of the rights accorded to aliens by public treaties.

Act 32 of 20 February 1936 on admission to educational institutions

Article 1. No primary, secondary or vocational educational establishment may refuse to admit pupils on the grounds of illegitimate birth or social, racial or religious difference.

Article 2. Any violation of this provision by a professor, headmaster or teacher shall constitute improper conduct and shall lead to the immediate dismissal of the person concerned and permanent deprivation of the right to teach in public establishments.

Article 3. With regard to private schools, the refusal to admit pupils on the grounds of illegitimate birth or social, racial or religious differences shall involve loss of the State subsidy if they receive one, and of their right, if they possess it, to have their diplomas and certificates recognized by the State. In addition, the State shall render pupils of schools that fail to comply with the provisions of this Act ineligible to apply for the diplomas to which they would otherwise be entitled.

Article 4. The acceptance of differences on the grounds stated in this Act in the internal régime of the establishments in question shall entail the same penalties.

* * *

Act No. 135 of 13 December 1961 provides for the non-allocation of uncultivated land occupied by indigenous peoples (art. 29), while article 58, third paragraph, empowers INCORA to expropriate properly worked land for the reorganization of the indigenous reserves and in general to provide land to the indigenous communities, in accordance with article 94 of this Act. It empowers the Institute to establish land reserves for indigenous groups or tribes which have no land to divide indigenous reserves, after consultation with the Ministry of the Interior.

Act No. 89 of 25 November 1890 provides for "the manner in which the savages who are being converted to civilized life are to be governed. The Act provides for the organization of indigenous councils, reserves for the protection of indigenous inhabitants and the division of reserve lands."

Act No. 7 of 24 January 1978 for the protection of children

Article 2. Childhood forms a basic component of any policy directed towards social progress, and the State shall offer children and young people the possibility of playing an active part in all spheres of social life and a comprehensive and multi-faceted education.

Article 3. Every child has a right to participate in the programmes of the State and in the elementary education provided to Colombians, without distinctions as to race, colour, sex, religion, social status or origin. Similarly, every child has a right to be educated in a spirit of peace and universal brotherhood.

Article 4. All children from the time of their conception — whether in or out of wedlock — have a right to enjoy the special care and assistance of the State. The Government shall ensure the elimination of any form of discrimination in the legal régime relating to the family and of any distinction creating inferiority among children.

Article 5. Every child has a right to a name and a nationality. This guarantee has as its counterpart the duty of the State to make every effort to ensure a responsible attitude in the younger generation.

Article 6. Every child has a right to education, social security and welfare. It is the duty of the State to make provision for schools, school meals and the protection of children, particularly handicapped children who require special care.

Article 7. Every child has a right to medical care, to access to culture and sport, and to live in the home of a family. A sick child has the right to rehabilitation and to be among the first to receive assistance in the event of a disaster.

Article 8. Parents shall have a right to select the type of education which their children will receive. If there are no parents and no persons responsible for them, the State shall assume responsibility for the education of minors, in accordance with their age and abilities.

Article 9. The State shall ensure that pre-school education is aimed at promoting and encouraging in children under seven years of age psychomotor development, sensitive perception, social integration and preparation for school activities. In rural areas and marginal urban areas, such programmes shall include a nutritional supplement for health purposes.

Decree No. 1710 of 1963

Article 10 provides that every person has a right to primary education as from the age of seven years.

Decree No. 2085 of 1975

Article 26. Sound broadcasting stations shall not be permitted to broadcast jokes which are offensive to individuals, institutions or professions or words with double meanings which tend to undermine the dignity of, and respect for, the civilian, military or ecclesiastical authorities in Colombia or abroad.

Decree-Law No. 126 of 26 January 1976

Article 1.

. . .

(*d*) It shall be the responsibility of the Ministry of the Interior to supervise the integrity of the areas designated as Indian reserves.

. . .

(*f*) It shall be the responsibility of the Ministry of the Interior to grant, suspend and cancel the juridical personality of boards, associations, communal action federations and confederations, and corporations and federations which undertake activities relating to the indigenous communities.

Decree No. 1419 of 1978

Article 3. The planning of curricula for the pre-school elementary (primary and junior secondary), vocational secondary and vocational intermediate levels shall conform to the aims of the Colombian education system, which are deemed to be the following:

1. To contribute to the balanced development of the individual and society on the basis of respect for life and human rights;

. . .

3. To promote the individual's conscious and responsible participation as a member of the family and the social group, and to strengthen the links that further the identity and progress of society;

. . .

9. To encourage the study of indigenous values, and knowledge of, and respect for, the values that are characteristic of the various human groups;

Decree No. 1142 of 19 June 1978

Article 1. All educational programmes for the indigenous communities shall be planned, supervised and evaluated by the Ministry of Education, with the co-operation of the communities concerned.

Article 2. For the purposes of article 23, paragraphs (*f*), (*g*), (*h*) and (*i*), and article 32, paragraph (*h*), of Decree-Law No. 088 of 1976, any educational programme carried out among the indigenous communities by international private or official bodies shall be regarded as international technical co-operation. No educational programme of this kind may be initiated without the consent of the communities concerned.

Article 3. Educational facilities for the indigenous communities shall be provided free of charge at the official education establishments functioning within the indigenous communities or at outside establishments which are intended exclusively or largely for them. The Colombian State shall, through the Ministry of Education, allocate the requisite funds to cover the educational needs of such communities and set up contractual local administrative machinery, with the participation of the indigenous communities, for the purposes of effective decentralization of the management of the funds in question.

* * *

Decree No. 389 of 1984 provides that, if the indigenous inhabitants are occupying individual plots or if they are not organized into communities, their land is awarded to them in accordance with the same procedure as if a private individual was involved.

Under the Concordat and Final Protocol of 12 July 1973 between Colombia and the Holy See, made law by Act 20 of 1974, the missions agreement of 1953 was abolished, as a result of which the State assumed responsibility for the education of the indigenous inhabitants. A joint Government/Church commission was established, and provision was made for the conclusion of contracts in the marginal areas which, in view of their boundaries, also extend to the indigenous communities.

Cuba

[*Original: Spanish*]

Constitution

Article 40. All citizens enjoy equal rights and are subject to equal duties.

Article 41. Discrimination on grounds of race, colour, sex or national origin is prohibited and is punishable by law. State institutions shall impart to everybody, from the earliest age, the principle of the equality of human beings.

Article 42. The State sanctions the right won by the Revolution that all citizens, regardless of race, colour or national origin shall:

Have access, in keeping with their merits and abilities, to all positions and types of employment for the State and in the public administration, production and services;

May be promoted to any rank of the Revolutionary Armed Forces and the forces of security and internal order, in keeping with their merits and abilities;

Receive equal pay for equal work;

Enjoy education in all the country's educational institutions, from the primary school to the universities, which are the same for all;

Receive medical care in all medical institutions;

Live in any sector, zone or district and stay in any hotel;

Be served at all restaurants and other public service establishments;

Travel, without any segregation, by sea, rail, air and motor vehicle;

Enjoy the same resorts, beaches, parks, social centres and other places of culture, sport, recreation and rest.

Article 52. Citizens shall enjoy freedom of speech and freedom of the press in accordance with the aims of Socialist society. The material conditions for the exercise of these freedoms are assured by the fact that the press, radio, television, the cinema and other mass media are State or social property and can in no case be private property, thus ensuring that they are used exclusively in the service of the working people and in the interests of society.

The exercise of these freedoms shall be regulated by law.

Article 53. The right of assembly, the right to demonstrate and the right of association shall be exercised by workers, both manual and intellec-

tual, peasants, women, students and other sectors of the working population, and the necessary means shall be made available to them for these purposes. Social and mass organizations shall have every facility for the development of these activities, in which their members shall enjoy full freedom of speech and opinion, based on the unrestricted right to initiative and criticism.

Article 61. None of the freedoms granted to citizens may be exercised in a manner contrary to the provisions of the Constitution and the law or to the existence and purposes of the Socialist State or to the determination of the Cuban people to build socialism and communism. Violation of this principle shall be punishable.

Article 62. Every citizen has the right to submit complaints and petitions to the authorities and to receive the relevant attention and replies within an appropriate period of time, in accordance with the law.

Article 154. Any public official or government agent who fails to fulfil the duties imposed on him by his post by refusing to receive a report of a criminal act shall be liable to a penalty of deprivation of liberty for a period of three to nine months or a fine of up to 270 units.

Article 333. Any person who, without being empowered to do so and other than in the cases and conditions provided for by law, deprives another person of his personal freedom shall be liable to a penalty of deprivation of liberty for a period of two to five years.

Article 349. (1) Anyone who discriminates against another person or engages in promotion of or incitement to discrimination, whether by manifesting and harbouring offensive attitudes towards that person's sex, race, colour or national origin or by committing acts designed to prevent or impede, for reasons of sex, race, colour or national origin, his exercise or enjoyment of the rights of equality established in the Constitution, shall be liable to a penalty of deprivation of liberty for six months to three years or a fine of 200 to 500 units or both.

(2) Anyone who disseminates ideas based on racial superiority or hatred or commits or engages in incitement to acts of violence against any race or group of persons of another colour or ethnic origin or encourages the crime of *apartheid* and segregationist or similar policies or their manifestations, shall be liable to the same penalty.

Law No. 62 of 30 December 1987 amending the Criminal Code

Article 120. 1. A penalty of ten to twenty years' deprivation of liberty, or death, shall be incurred by those who, with the aim of instituting and

maintaining the domination of one racial group over another and in accordance with policies of extermination, segregation and racial discrimination:

(*a*) Deny members of that group the right to life and freedom through murder, serious attacks on their physical or mental integrity, freedom or dignity, torture or punishment or cruel, inhuman or degrading treatment, arbitrary detention and unlawful imprisonment;

(*b*) Impose upon the group legislative or other measures designed to prevent its participation in the political, social, economic and cultural life of the country and deliberately to create conditions which impede its full development, refusing its members fundamental rights and freedoms;

(*c*) Divide the population in accordance with racial criteria, establishing reserves and ghettos, prohibiting marriage between members of different racial groups and expropriating their property;

(*d*) Exploit the work of members of the group, and in particular subject them to forced labour.

2. In the case of any form of persecution or harassment of organizations and persons opposed to or fighting against *apartheid*, the penalty shall be ten to twenty years' deprivation of liberty.

3. The authors of the acts referred to in the preceding paragraphs shall be held liable, regardless of the country in which the act was committed or in which they reside, and such liability shall extend, whatever the motive for the act, to private individuals, members of organizations or institutions and representatives of the State.

Article 295. 1. Anyone who discriminates against another person or engages in promotion of or incitement to discrimination, whether by manifesting and harbouring offensive attitudes towards that person's sex, race, colour or national origin or by committing acts designed to prevent or impede, for reasons of sex, race, colour or national origin, his exercise or enjoyment of the rights of equality established in the Constitution, shall be liable to a penalty of deprivation of liberty for six months to two years or a fine of 200 to 500 units or both.

2. Anyone who disseminates ideas based on racial superiority or hatred or commits or engages in incitement to acts of violence against any race or group of persons of another colour or ethnic origin shall be liable to the same penalty.

Criminal Procedure Act

Article 1. Criminal justice is dispensed on behalf of the people of Cuba. No penalty or security measure may be imposed except in conformity

with the procedural norm established in this Act and pursuant to a judgement pronounced by the competent court.

Article 109. The Attorney-General, in his capacity as the person responsible for Socialist legality, shall guarantee that:

(1) Punishable acts are elucidated, the objective truth is established and the persons who have committed the acts are indicted before the courts;

(2) The dignity of the citizen is respected and that he is in no case subjected to illegal restriction of his rights;

(3) The law and other legal provisions are strictly complied with in the preliminary investigation carried out by the examining judge during the preparatory phase.

Judicial System (Organization) Act

Article 4.

. . .

(5) One of the objectives of the work of the courts is to protect the life, liberty, dignity, honour, heritage, family relations and other legitimate rights and interests of citizens.

Article 13.

. . .

(4) Justice shall be dispensed on the basis of the equality of all citizens before the law and the courts.

Cyprus

[*Original: English*]

Constitution

Article 2. Every person has the right to liberty and security of person.

Article 14. No citzen shall be banished or excluded from the Republic under any circumstances.

Article 15. (1) Every person has the right to respect for his private and family life.

(2) There shall be no interference with the exercise of this right except such as is in accordance with the law and is necessary only in the interests of

the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person.

Article 18. (1) Every person has the right to freedom of thought, conscience and religion.

(2) All religions whose doctrines or rites are not secret are free.

(3) All religions are equal before the law. Without prejudice to the competence of the Communal Chambers under this Constitution, no legislative, executive or administrative act of the Republic shall discriminate against any religious institution or religion.

Article 19. (1) Every person has the right to freedom of speech and expression in any form.

(2) This right includes freedom to hold opinions and receive and impart information and ideas without interference by any public authority and regardless of frontiers.

Article 20. (1) Every person has the right to receive, and every person or institution has the right to give, instruction or education subject to such formalities, conditions or restrictions as are in accordance with the relevant communal law and are necessary only in the interest of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or the standard and quality of education or for the protection of the rights and liberties of others including the right of the parents to secure for their children such education as is in conformity with their religious convictions.

Article 21. (1) Every person has the right to freedom of peaceful assembly.

(2) Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph (3) of this article, no person shall be compelled to join any association or to continue to be a member thereof.

. . .

(4) Any association the subject or activities of which are contrary to the constitutional order is prohibited.

Article 25. (1) Every person has the right to practise any profession or to carry on any occupation, trade or business.

(2) The exercise of this right may be subject to such formalities, conditions or restrictions as are prescribed by law and relate exclusively to the qualifications usually required for the exercise of any profession or are nec-

essary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person or in the public interest:

Provided that no such formalities, conditions or restrictions purporting to be in the public interest shall be prescribed by a law if such formality, condition or restriction is contrary to the interests of either Community.

Article 26. (1) Every person has the right to enter freely into any contract subject to such conditions, limitations or restrictions as are laid down by the general principles of the law of contract. A law shall provide for the prevention of exploitation by persons who are commanding economic power.

(2) A law may provide for collective labour contracts of obligatory fulfilment by employers and workers with adequate protection of the rights of any person, whether or not represented at the conclusion of such contract.

Article 28. (1) All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.

(2) Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class or on any ground whatsoever, unless there is express provision to the contrary in this Constitution.

(4) Any association the subject or activities of which are contrary to the constitutional order is prohibited.

Article 29. (1) Every person has the right individually or jointly with others to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously; an immediate notice of any such decision taken duly reasoned shall be given to the person making the request or complaint and in any event within a period not exceeding thirty days.

(2) Where any interested person is aggrieved by any such decision or where no such decision is notified to such person within the period specified in paragraph (1) of this article, such person may have recourse to a competent court in the matter of such request or complaint.

Article 30. (1) No person shall be denied access to the court assigned to him by or under this Constitution. The establishment of judicial committees or exceptional courts under any name whatsoever is prohibited.

Article 34. Nothing in this part may be interpreted as implying for any Community, group or person any right to engage in any activity or perform any act aimed at the undermining or destruction of the constitutional order established by this Constitution or at the destruction of any of the rights and liberties set forth in this part or at their limitation to a greater extent than is provided for therein.

Criminal Code

Section 47. Any person who:

(*a*) Conspires with any other person or persons to do any act in furtherance of any seditious intention common to both or all of them; or

(*b*) Publishes any words or document or makes any visible representation whatsoever with a seditious intention,

is guilty of a felony and is liable to imprisonment for five years.

Section 48. For the purposes of the last preceding section a seditious intention is an intention:

. . .

(*e*) To raise discontent or disaffection amongst the subjects or inhabitants of the Republic, or

(*f*) To promote feelings of ill-will and hostility between different communities or classes of the population of the Republic.

Provided that it shall be lawful for any person:

. . .

(IV) To point out in good faith, with a view to their removal, any matters which are producing or have a tendency to produce feelings of ill-will and enmity between different communities or classes of the population of the Republic.

Section 51. (1) Any person who prints, publishes, or to any assembly makes any statement calculated or likely to:

(i) Encourage recourse to violence on the part of any of the inhabitants of the Republic; or

(ii) Promote feelings of ill-will between different classes or communities or persons in the Republic

is guilty of misdemeanour and is liable to imprisonment for twelve months.

(2) For the purpose of this section an "assembly" means a gathering of five or more persons.

The principal law is hereby amended by the addition thereto immediately after section 51 of the following new section:

Section 51A. (1) Any person who publicly in any manner and in any way procures the inhabitants to acts of violence against each other or to mutual discord or foments the creation of a spirit of intolerance, is guilty of a misdemeanour and is liable to imprisonment for twelve months or to a fine of one thousand pounds or to both such penalities, and if a body corporate to a fine of three thousand pounds.

(2) No prosecution under this section shall be instituted without the written consent of the Attorney-General of the Republic.

Czechoslovakia

[*Original: English*]

Constitution

Article 20. (1) All citizens shall have equal rights and equal duties.

(2) The equality of all citizens without regard to nationality and race shall be guaranteed.

(3) Men and women shall have equal status in the family, at work and in public activity.

(4) The society of the working people shall ensure the equality of all citizens by creating equal possibilities and equal opportunities in all fields of public life.

Penal Code

Section 196.

. . .

(2) Whoever uses violence against a group of inhabitants or an individual or threatens them with death, injury to health or material damage of great extent because they adhere to the Socialist social and governmental system, because of their nationality, race, religion or because they are without confession, shall be punished by imprisonment for a term of up to two years or by reformatory measure.

If injury to health occurs, e.g. for reasons of racial intolerance then, depending on the nature of the injury, the offender is prosecuted either for the criminal offence under section 221 of the Czechoslovak Penal Code, if it was injury requiring medical treatment or causing working disability for more than seven days, or under section 222 of the Penal Code, if it was a severe injury to health or an injury that has caused death.

Section 198. (*a*) Whoever publicly and in a manner causing indignation defames a nation, its language, or a race, shall be punished by imprisonment for a term of up to one year or by reformatory measure.

Section 221.

. . .

(2)

. . .

(*b*) If he commits such act on another person because such person adheres to the Socialist social and governmental system, because of his nationality, *racial origin*, religious beliefs or because he is without confession, the punishment for this criminal offence is a term of imprisonment from six months up to three years.

Section 221, paragraphs 3 and 4. If the offender's intent was to cause only a light injury to health but, because of negligence, he caused severe injury to health or death, the punishment in the former case is increased to a term of imprisonment of one to five years, in the latter case of three to eight years.

Section 259. (1) Whoever, acting with the intent to destroy fully or partially a national, ethnic or religious group:

(*a*) Brings the members of such group into living conditions which are to cause their complete or partial physical destruction,

(*b*) Carries out measures designed to prevent children from being born in such a group,

(*c*) Forcibly transfers children from one such group to another group, or

(*d*) Causes severe injury to the health or the death of a member of such a group,

shall be punished by imprisonment for a term of twelve to fifteen years or by death.

(2) The same punishment shall be imposed on any person who participates in the acts described in paragraph 1.

Section 261. (1) Whoever supports or propagates fascism or another similar movement which aims at suppressing the rights and freedoms of the working people or which preaches national, racial or religious hatred, shall be punished by imprisonment for a term of one to five years.

(2) The offender shall be punished by imprisonment for a term of three to eight years,

(*a*) If he commits the act described in paragraph 1 through the contents of printed matter, the film, radio, television or another, similarly effective manner, or

(*b*) If he commits such act under a state of defence emergency.

Denmark

[*Original: English*]

Constitution

Section 70. No person shall be denied the right to full enjoyment of civil and political rights by reason of his creed or descent; nor shall he for such reasons evade any common civil duty.

Article 78. (1) Citizens shall without prior permission be free to form associations for any lawful purpose.

(2) Associations employing violence, or aiming at the attainment of their object by violence, by instigation to violence, or by similar punishable influence on dissenters shall be dissolved by court judgement.

(3) No association shall be dissolved by any government measure; but an association may be temporarily prohibited provided that immediate proceedings be taken for its dissolution.

(4) Cases relating to the dissolution of political associations may, without special permission, be brought before the Supreme Court of Justice of the Realm.

(5) The legal effects of the dissolution shall be determined by statute.

Penal Code

Section 21. (1) Acts aiming at promoting or carrying out an offence shall be punished as attempts, when the offence is not accomplished.

(2) The penalty prescribed for the offence may be mitigated in the case of attempts, particularly when the attempt gives evidence of little strength or persistence in the criminal intention.

(3) Unless otherwise provided, attempts shall be punished only where the offence is subject to a penalty more severe than simple detention.

Section 23. (1) The penalty in respect of an offence shall apply to any person who has contributed to the execution of the wrongful action by instigation, advice or action. The penalty may be mitigated in respect of a person who has intended to give assistance of minor importance only or to strengthen an intention already existing and, again, if the offence has not been accomplished or if an intended assistance has failed.

(2) Similarly, the penalty may be mitigated in respect of a person who has contributed to the breach of a duty in a special relationship in which he himself has no part.

(3) Unless otherwise provided, the penalty for participation in offences that are not subject to a penalty more severe than simple detention shall not take effect if the accomplice had intended to give an assistance of minor importance only or to strengthen an intention already existing or, again, if his own complicity is due to negligence.

Section 132a. Any person who takes part in the continued activities of an association, after that association has been prohibited, for the time being, by the Government or has been dissolved by judgement shall be liable to simple detention or imprisonment for any term not exceeding one year. Any person who, subsequent to the prohibition or the dissolution, joins such association as a member shall be liable to a fine or to simple detention.

Section 136. (1) Any person who, without thereby having incurred a higher penalty, publicly incites to an offence shall be liable to simple detention or to imprisonment for any term not exceeding four years, or in the case of extenuating circumstances, to a fine.

Section 266. Any person who, in a manner likely to inspire some other person with serious fears concerning the life, health or welfare of himself or of others, threatens to commit a punishable act shall be liable to a fine or to simple detention or to imprisonment for any term not exceeding two years.

Section 266a. Any person who, in circumstances other than those covered by sections 136 or 266 of this Act makes public statements aimed at provoking acts of violence or destruction shall be liable to simple detention or to imprisonment for any term not exceeding one year or, in extenuating circumstances, to a fine.

Section 266b. Any person who, publicly or with intent to propagate them in a wider circle, makes statements or any other communication by which a group of persons is threatened, insulted or exposed to indignities on grounds of race, colour, national extraction, ethnic origin, or religion shall be liable to a fine, simple detention or imprisonment for any term not exceeding two years.

* * *

By Act No. 357 of 3 June 1987 section 266b of the Danish Penal Code was extended to cover also sexual preferences. The Act came into force on 1 July 1987.

Act No. 228 of 23 May 1984 on liability for damages as amended by Act No. 618 of 19 December 1984

Section 26. Any person who is responsible for a violation of another person's liberty, peace, honour or person shall pay the injured party damages for injury to his or her reputation.

Local Government Elections Act (No. 143) of 30 March 1981

Section 1. (1) Any person shall be entitled, subject to the exceptions set out in subsection (2) of this section, to vote in elections to the Copenhagen City Council or to the councils of primary and county local government districts if he has attained the age of 18 and is permanently resident in the local government district concerned, provided that persons who are not Danish citizens shall be entitled to vote only if they have been permanently resident in the Realm for a period of three years immediately preceding the election.

Ombudsman Act No. 203 of 11 June 1954 as subsequently amended by Act No. 258 of June 1971

Section 1. (1) After every general election and when vacancy occurs the Folketing shall elect an Ombudsman to supervise, on its behalf, civil and military central government administration and local government administration. The jurisdiction of the Ombudsman shall not extend to the functions of judges, chief administrative officers of the courts of justice, the head of Probate Division of the Copenhagen City Court, clerks of the Supreme Court, and assistant judges.

Section 4. (1) The jurisdiction of the Ombudsman shall extend to ministers, civil servants and all other persons in government service except as provided in section 1, subsection (1).

Section 6. (1) Any person may lodge a complaint with the Ombudsman against any of the persons referred to in section 4. Any person deprived of his personal liberty shall be entitled to address written communications to the Ombudsman in sealed envelopes.

Act No. 289 of 9 June 1971

1. (1) Any person who, within a trade or business, or a non-profit undertaking, on the ground of a person's race, colour, national extraction, ethnic origin, or religion refuses to serve the person concerned on the same

conditions as others shall be liable to a fine, or imprisonment for any term not exceeding six months.

(2) The same penalty shall apply to any person who on any of the grounds mentioned in the foregoing subsection refuses to give a person access on the same conditions as others to any place, performance, exhibition, meeting or the like that is open to the public.

[The Act was put into effect for Greenland by Ordinance No. 27 of 4 February 1972 and for the Faroe Islands by Ordinance No. 382 of 12 August 1972.]

* * *

Act No. 289 of June 1971 was extended by Act No. 357 of 3 June 1987 to cover prohibition of discrimination on grounds of sexual preferences.

Aliens Act

Section 13. (1) An alien shall have been issued with a work permit to be allowed to take paid or unpaid employment; to undertake independent gainful activity; and to render services with or without consideration in Denmark. A work permit is required also for employment aboard a Danish ship or aircraft which, as part of liner traffic or otherwise regularly calls at Danish ports or airports.

Section 14. (1) The aliens listed in this section shall not require work permits:

(i) Nationals of another Nordic country, cf. section 1;

(ii) Aliens falling within the EEC [European Economic Community] rules, cf. sections 2 and 6; and

(iii) Aliens issued with an open-ended residence permit.

(2) The Minister for Justice may order that other aliens shall not require work permits.

Aliens Order (Ministry of Justice Order No. 19 of 18 January 1984)

Article 31. (1) Work permits shall be granted to the aliens referred to in section 9 (1) (1-3) of the Aliens Act, cf. however paragraph (2) of this article.

(2) Relatives of such aliens as are issued with a five-year residence permit under section 9 (1) (2) and (3) of the Aliens Act shall be granted work permits only after two years' permanent stay in Denmark. However,

this provision shall not apply to relatives of the aliens referred to in sections 7 and 9 of the Aliens Act.

(3) A work permit may further be granted to the aliens referred to in section 9 (2) (1) and (3) of the Aliens Act.

Article 32. A foreign student as referred to in article 24 of this Order may be granted a work permit entitling him to employment in the months of June, July and August. After 18 months' stay in Denmark he may be granted a work permit entitling him to employment in part-time work for up to 15 hours per week.

Article 33. A work permit shall be granted to aliens other than those referred to in articles 31 and 32 of this Order only where appropriate for significant employment and industrial reasons.

Article 34. (1) An alien granted a work permit by virtue of article 31 of this Order shall be issued with an unconditional work permit.

(2) An alien granted a work permit by virtue of a provision other than the provisions of article 31 of this Order shall be issued with a work permit for employment at a specified job and/or with a specified employer. The Directorate for Aliens may amend the work permit for employment at another job and/or with another employer.

Act No. 243 of 6 June 1985 on prohibition of new Danish investments, etc. in South Africa and Namibia

Section 1. (1) New investments of any nature in South Africa and Namibia, including investments in business activities, in stationary plants, buildings, machinery and operating equipment shall be prohibited, irrespective of the legal form of the making of the investment.

(2) Leasing contracts of any nature concerning machinery and operating equipment to be used in South Africa and Namibia shall not be entered into.

(3) The prohibitions in subsections (1) and (2) above shall also apply to Danish citizens who are staying or residing outside Denmark and to persons domiciled and enterprises residing in Denmark that have a controlling influence on an enterprise residing abroad.

(4) The prohibition in subsection (1) above shall not apply to investments which are made with a view to pursuing previous investments in business activities in South Africa and Namibia where the investments have been made in order to maintain commercially sound operation of the business. However, such investments shall not be made in order to expand previously established business activities.

(5) Persons domiciled and enterprises residing in Denmark that have a controlling influence on an enterprise in South Africa or Namibia shall annually forward information about the activities of these enterprises according to rules and regulations to be laid down by the Minister of Industry. The Minister of Industry shall annually forward reports on the observance of this Act to the Parliamentary Committee on Trade and Industry (Erhvervsudvalget) and to the Parliamentary Committee on Foreign Affairs (Udenrigsudvalget).

Section 2. (1) Any person, including members of the board of directors of enterprises, who is guilty of an offence under section (1) above shall be liable to a fine or to mitigated imprisonment.

(2) In case of offences committed by a public limited liability company, private company, co-operative society, etc. the fine may be imposed on the company or association as such.

Section 3. (1) This Act shall come into operation the day after it has been published in the Danish law reports, *Lovtidende*.

(2) This Act may be wholly or partly repealed by ordinance.

Act No. 267 of 22 May 1986 prohibiting import of coal from the Republic of South Africa and Namibia

Section 1. (1) Import into Denmark of coal originating in the Republic of South Africa or Namibia shall not take place, except as provided by subsection (2) below.

(2) For up to six months after the Act has entered into force power companies may, however, import coal originating in the Republic of South Africa or Namibia with the aim of phasing out imports from these areas.

Section 2. (1) Persons, including company board members, violating section 1 above shall be liable to fine or mitigated imprisonment.

(2) Where a violation has been committed by a company, co-operative society, private company or similar, the company as such shall be held liable to fine.

(3) Where a violation has been committed by a municipality or a municipal community falling within section 60 of the Local Government Act, the municipality or municipal community as such shall be held liable to fine.

Section 3. (1) The Act enters into force on the day following publication in the Law Gazette (*Lovtidende*).

(2) The validity of this Act may be restricted or terminated by Royal Ordinance.

Section 1. (1) Import into Denmark of any type of goods and services originating in the Republic of South Africa and Namibia and export of any type of goods and services from Denmark to the Republic of South Africa and Namibia shall not take place.

(2) The provision of subsection (1) above shall not apply to:

(i) Non-commercial imports and exports;

(ii) Export of products for purely medical purposes; and

(iii) Coal for which provision is made in the Act Banning Import of Coal from the Republic of South Africa and Namibia.

(3) The Minister for Industry may, after consultation with the Standing Foreign Affairs Committee, grant exemption from the prohibition set out in subsection (1) above. Exemption may be granted for a period not exceeding two years.

(4) With a view to the phasing out of the import and export referred to in subsection (1) above, import and export of any type of goods and services may take place until 15 December 1986.

Section 2. The ban on trade with the Republic of South Africa and Namibia applies also to transport of mineral oil and mineral oil products by Danish-owned vessels to and from the Republic of South Africa and Namibia.

Section 3. (1) Persons, including company board members, violating sections 1 and 2 above shall be liable to a fine or mitigated imprisonment.

(2) Where a violation has been committed by a company, co-operative society, private company or similar, the company as such shall be held liable to fine.

(3) Where a violation has been committed by a municipality or a municipal community falling within section 60 of the Local Government Act, the municipality or municipal community as such shall be held liable to fine.

Section 4. (1) The Act enters into force on 15 June 1986.

(2) The validity of this Act may be restricted or terminated by Royal Ordinance.

Dominica

[*Original: English*]

Constitution

Section 1. Whereas every person in Dominica is entitled to the fundamental rights and freedoms, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

(*a*) Life, liberty, security of the person and the protection of the law;

(*b*) Freedom of conscience, of expression and of assembly and association; and

(*c*) Protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

Section 13. (1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person or authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by sex, race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision:

(*a*) For the appropriation of public revenues or other public funds;

(*b*) With respect to persons who are not citizens of Dominica;

(*c*) For the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce,

burial, devolution of property on death or other like matters which is the personal law of persons of that description;

(*d*) Whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage that, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to sex, race, place of origin, political opinions, colour or creed) to be required of any person who is appointed to or to act in any office or employment.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or subsection (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorized by section 7 (2), section 9 (5), section 10 (2), section 11 (2) or paragraph (*a*), (*b*) or (*h*) of section 12 (3), as the case may be.

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Section 14. Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 3 or section 13 of this Constitution to the extent that the law authorizes the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Dominica during that period.

Section 16. (1) If any person alleges that any of the provisions of sections 2 to 15 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.

(2) The High Court shall have original jurisidiction:

(*a*) To hear and determine any application made by any person in pursuance of subsection (1) of this section; and

(*b*) To determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section, and may make such declarations and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 2 to 15 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in any proceedings in any court (other than the Court of Appeal or the High Court or a court martial) any question arises as to the contravention of any of the provisions of sections 2 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the High Court in pursuance of subsection (3) of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to the Judicial Committee, in accordance with the decision of the Court of Appeal or, as the case may be, of the Judicial Committee.

(5) The High Court shall have such powers in addition to those conferred by this section as may be conferred upon it by Parliament for the purpose of enabling it more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

Nationality and Racial Offences Act

Section 3. (1) Any person, being the proprietor of or manager employed for the purposes of any place of public resort who practises discrimination on the ground of colour, race, ethnic or national origin against per-

sons seeking access to or facilities or services at that place shall be guilty of an offence under this Act.

(2) For the purposes of this section a person discriminates against another person if he refuses or neglects to afford him access to a place of public resort, or any facilities or services available there in the like manner and on the like terms on which such facilities, access or services are available to other members of the public resorting thereto.

Section 4. (1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises comprised in a tenancy that licence or consent shall be deemed to be unreasonably withheld if and so far as it is withheld on the ground of colour, race or ethnic or national origins.

(2) Any covenant, agreement or stipulation which purports to prohibit the disposal of premises comprised in a tenancy to persons by reference to colour, race or ethnic or national origins shall be null and void.

(3) In this section "tenancy" means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any enactment; and "disposal" in relation to premises comprised in a tenancy includes assignment or assignation of the tenancy and subletting or parting with possession of the premises or any part of the premises.

(4) This section applies to tenancies created before as well as after the passing of this Act; but does not apply to a tenancy of premises forming part of the dwelling house of which the remainder or part of the remainder is occupied by the person whose licence or consent is required, as his own residence.

Section 5. Any person who on the grounds of colour, race or ethnic or national origins prevents, hinders or causes any other person to prevent or hinder any persons from having access to, remaining on, or making use of the facilities of any place of public resort shall be guilty of an offence under this Act.

Section 6. A person shall be guilty of an offence under this Act if, with intent to stir up hatred against any person or any section of the public in Dominica distinguished by colour, race or ethnic or national origins:

(*a*) He assaults or beats any such person or members of any section of the public in Dominica;

(*b*) He publishes or distributes written matter which is threatening, abusive or insulting;

(*c*) He uses in any public place, or at any public meeting words which are threatening, abusive or insulting, being matter or words likely to stir up

hatred against that person or section on grounds of colour, race or ethnic or national origins;

(*d*) He burns, tears, defaces or destroys the national emblems of any country, in a public place or elsewhere.

Section 7. Notwithstanding the provisions of the Public Order Ordinance or of any other enactment any person who on grounds of colour, race or ethnic or national origins in any public place or at any public meeting:

(*a*) Uses threatening, abusive or insulting words or behaviour, or

(*b*) Distributes or displays any writing, sign or visible representation which is threatening, abusive or insulting;

with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence under this Act.

Section 8. A person guilty of an offence under this Act shall be liable:

(*a*) On summary conviction to imprisonment for a term of six months or to a fine of six hundred dollars or both;

(*b*) On conviction on indictment to imprisonment for a term of two years or to a fine of one thousand dollars.

Ecuador

[*Original: Spanish*]

Constitution

Article 19. The State guarantees:

(1) The inviolability of life and personal integrity. There shall be no death penalty. Torture and any inhuman and degrading practices are forbidden;

(2) The right to live in an environment free from contamination. It is the duty of the State to ensure that this right is not undermined and to protect nature. The law shall establish restrictions on the exercise of specific rights or freedoms in order to protect the environment;

(3) The right to honour, reputation and personal and family privacy;

(4) The right to freedom of opinion and of expression by any means of collective communication, without prejudice to the responsibilities established by the law.

Anyone who is injured by false allegations or whose reputation suffers as a result of publications by the press or other mass communications media is entitled to free redress by the media in question.

. . .

(6) Freedom of conscience and of religion, individually or in community, in public or private. Individuals shall be free to practise the religion professed by them subject only to those limitations prescribed by law in order to protect public safety and morals or the fundamental rights of other individuals;

. . .

(10) The right to petition the authorities, but never in the name of the people; and to receive appropriate attention or replies within a certain period, in conformity with the law;

(11) Freedom of employment, trade and industry, subject to the law. No one may be compelled to perform unremunerated or forced labour;

(12) The right to conclude a contract, subject to the law;

(13) The right of association and freedom of assembly for peaceful purposes;

(14) The right to a standard of living that provides for health, food, clothing, accommodation, medical care and requisite social services;

(15) The right not to disclose one's political and religious convictions. No one may be compelled to testify about them, except in the cases provided by the law;

(16) The right to participate in the cultural life of the community;

(17) Personal freedom and security. Consequently:

(*a*) Slavery and servitude are prohibited in all their forms;

. . .

(*h*) No one shall be deprived of his freedom except by an order signed by the competent authority in the case, for the length of time and with the formalities prescribed by the law, except in cases of *flagrante delicto*, when a person may not be held for more than 24 hours without an order, in all cases he may not be held incommunicado for more than 24 hours;

(*i*) Every person shall be informed immediately of the cause or reason for his arrest; and

(*j*) Anyone who considers that he has been unlawfully deprived of his freedom may avail himself of the remedy of habeas corpus. He may exercise this right either personally or through another person, without need of a written order, by applying to the mayor or the president of the council in his jurisdiction or whoever is acting for him . . .

Article 20. The State and other public sector entities shall be required to compensate individuals for damages incurred by them as a result of the operation of public services or of the acts of their officials and employees in the exercise of their functions.

In such cases, the aforementioned entities shall exercise the right of redress and enforce the liability of officials and employees who, through malice or negligence, legally testified, were responsible for the damages. The criminal responsibility of such officials and employees shall be established by the competent judges.

Article 21. When a decision has been revoked or reversed following an appeal for review, a person who has suffered punishment as a result of such a decision shall be rehabilitated and compensated by the State in conformity with the law.

Article 26. The State shall develop and promote culture, artistic creation and scientific research; it shall assure the preservation of the cultural heritage and the artistic and historical wealth of the nation.

Article 27. Education is the primary duty of the State. Public education is secular and free at all levels.

Private education is guaranteed.

The right of parents to give their children the kind of education they consider appropriate is recognized.

Education shall draw on principles of nationality, democracy, social justice, peace, the defence of human rights and shall be open to all trends in universal thought.

Education shall have a moral, historical and social orientation; it shall stimulate the development of the student's critical ability for a proper understanding of the situation of Ecuador, the encouragement of a genuine national culture, human solidarity and social and community activities.

The freedom to receive and to impart instruction is guaranteed.

Elementary and basic education are compulsory. In public institutions, free social services shall be provided.

In schools situated in areas where the population is predominantly indigenous, Quechua or the appropriate indigenous language shall be used, in addition to Spanish, as the language of communication.

The State shall formulate and implement plans for the eradication of illiteracy.

The education plans shall have as their objectives the overall development of the individual and of society.

Article 32. Ecuadorian citizens enjoy the right to elect officials and to hold public office; to submit draft legislation to the National Congress; to be consulted in the cases specified in the Constitution; to supervise the activities of the organs of the public power; and to discharge public duties and functions, in the circumstances determined by the law.

Article 33. Suffrage is universal, equal, direct and secret, compulsory for those able to read and write and optional for those who are illiterate.

Article 37. Only political parties recognized by the law may put forward candidates for elections. To take part as a candidate in any election, in addition to the other requirements laid down by the Constitution, it is necessary to belong to a political party.

Amendment to the Penal Code

Article 2. Following chapter VIII of Title II of the Penal Code, add a chapter, consisting of the following articles, which states:

. . . A penalty of imprisonment from six months to three years shall be incurred by:

(1) Anyone, who by any method whatever, disseminates ideas based on racial superiority or hatred;

(2) Anyone who incites racial discrimination in any form;

(3) Anyone who commits acts of violence or incites the commission of such acts against any race, person or group of persons of any colour or ethnic origin; and

(4) Anyone who finances, assists or aids any kind of racist activities.

If the offences described in this paragraph are ordered or executed by public officials or employees, the penalty incurred shall be imprisonment from one to five years.

. . . If the acts of violence referred to in subparagraph 3 of the above article result in injuries to any person, their authors shall incur the penalty of imprisonment from two to five years. If such acts of violence lead to a fatality, its authors shall incur the penalty of imprisonment from 12 to 16 years.

. . . Organizations and all propaganda and distribution activities that promote racial discrimination or incite to it are declared to be unlawful, and are consequently banned in the Republic. Accordingly, anyone who participates in such organizations or in such activities shall incur the penalty of imprisonment from two months to two years.

. . . Public authorities and public institutions, national, regional or local, are forbidden to promote or incite racial discrimination. The above-

mentioned authorities, the legal representatives or directors of such institutions shall be held responsible for any violation of this ban, and shall incur the penalty of imprisonment from six months to three years and loss of political rights for the same period as the sentence.

. . . Public officials or employees who commit any of the offences of racial discrimination described in this Decree shall be subject to the special rules specified in the Political Constitution in the event of the violation of the guarantees proclaimed therein.

El Salvador

[*Original: Spanish*]

Constitution

Article 3. All men are equal before the law. In the enjoyment of civil rights, no restrictions shall be enacted based on differences of nationality, race, sex or religion.

Hereditary offices or privileges are not recognized.

Article 4. Every man in the Republic is free. No one who enters the territory shall be a slave and no one who traffics in slaves may be a citizen. No one may be subjected to servitude or to any other requirement that impairs human dignity.

Article 5. Every person has the right to enter, remain in, and leave the territory of the Republic, subject to such limitations as the law may establish.

No one may be compelled to change his domicile or residence, except by order of a judicial authority in special cases and according to requirements prescribed by law.

No Salvadorian may be expatriated, nor his entry into the Republic prohibited, nor may a passport or other documents of identification for his return be denied. Nor can the individual be denied the right to leave the territory of the Republic other than under the terms of a resolution or a sentence imposed by a competent authority and in accordance with the law.

Article 6, paragraph 1. Every person may freely express and disseminate his thoughts provided that so doing does not subvert public order, and is not prejudicial to the morals, the honour, or the private life of other individuals. The exercise of this right shall not be subject to previous examination, censorship or bond, but anyone who violates the law in so doing shall be liable for the offence committed . . .

Article 8. No one shall be compelled to do anything not required by law or to refrain from doing anything not prohibited by law.

Article 9. No one may be compelled to perform work or personal services without fair remuneration or without his full consent, except in case of public disaster or for other reasons specified by law.

Article 11. No person may be deprived of the right to life, liberty, property or possessions, nor of any other human right, without having first been tried and sentenced in accordance with the law; nor shall anyone be tried twice for the same offence.

Every person has the right of habeas corpus, whenever any authority or individual illegally restricts his freedom.

Article 12. Every person accused of an offence has the right to be considered innocent until he is proven guilty, in conformity with the law, and in public trial in which all the guarantees necessary for his defence have been ensured to him.

Every detained person must be informed at once and in a manner that is understandable to him, of his rights and of the reasons for his detention, and cannot be compelled to plead. The aid of a lawyer to the detained is guaranteed in police and judicial proceedings, as may be laid down by law.

Statements obtained under duress shall be void and any person who obtains and uses such statements shall be criminally liable.

Article 15. No person shall be tried except under laws that were promulgated prior to the offence concerned, and by a court previously established by law.

Article 22. Every person has the right to dispose of his property freely, according to law. Property is transferable in the manner and form legally prescribed. Property may be disposed of freely by will.

Finland

[*Original: English*]

Penal Code

Chapter 13.

. . .

Section 4. Whosoever, with the intention of totally or in part destroying a certain race, national or ethnic group or religious group, slays members of this group or causes group members serious bodily or mental injuries, worsens the living conditions of the group, initiates the prevention of birth in